# A NEW GUIDE FOR CONSTABLES,

Head-boroughs, Tythingmen, Churchwardens, Overseers and Collectors for the Poor, Surveyors for Amending the Highways and Bridges, with Directions for Keepers of Fairs and Markets, and Treasurers for the Relief of poor Maimed Soldiers and Mariners.

Containing, not only whatsoever may be useful to them in the Execution of their several Offices, that is already Extant, in any BOOK of this Kind,

But also

The Heads of all those Statutes which do concern any of the said Offices that have been since made, in the Reigns of the late King *Charles*, King *James*, their Majesties King *William*, and Queen *Mary*, and of King *William* the Third; and continued down to the last Session of Parliament the 3*d*. of *April*, 1705. of her present Majesty Queen *Anne*, so that this Treatise is the most Compleat of any other of this Nature whatsoever yet Published.



Collected by *J*. P. Gent.

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## CHAP. I.

*f the Original Office and Jurisdiction of High-Constables, Petty Constables, Headboroughs, Borsholders and Tythingmen.*

THE *Saxon* Christian King *Alfred* (King of *England*) for the more peaceable Government and Ease of his Subjects, divided is wole Realm, of *England* first into Shires, en caused those Shires to be subdivided into undreds, Rapes, Ridings, Wapentakes; and vided these also into Tythings, Leets or Boughs, and in all these Divisions were appointed ficers for the better preservation of the Peace, ch are High-Constables, Petty-Constables, Headroughs, Borsholders and Thythingmen; the fice of all these later is one and the same, only fferent in Title, according to the Custom of e Country; in *Middlesex*, besides the High-

Constables of the Hundreds, they have Petty Constables and Headboroughs in the respective Parishes, and they are in number more or less according to the greatness or smalness of the Parish; in *Kent* these Petty Officers of the Parishes are called *Borsholders*; but in *Hampshire*, and all the Western Parts, *Tythingmen*, and their Divisions of Parishes, *Tythings*; in *Sussex* the Hundreds are called *Rapes*; and in the North, *Ridings* and *Wapentakes*.

There was anciently in *England* a great Officer called the High Constable of *England*, and he kept an Office (which is supposed to come hither with *William* the Conqueror out of *Normandy*) or Court called the Constable's Court, or the Court of the High Constable, wherein he had Authority to hear and determine Contracts, touching Deeds of Arms out of the Realm, and to determine all things concerning War within the Realm, as Combats, Blazon, Armory, *&c.* but not to deal with Battel in Appeals, that belonging to the Common Law of the Land.

Amongst the rest of the Conqueror's Laws this is one, That if a *French-Man* do appeal an *English-Man* of Perjury or Murder, the *French-Man* may defend himself by *Battail*, which in English was then called *Earnest*, which Word we yet retain; and the Officer to see this performed was the High-Constable; but this Officer, Court and practice is long since dissolved.

The Etymology of this Word *Constable*, proceeds from the old Word **Conning** or **Cyng** and **Staple** or **Stable**; the Word **Conning** or **Cyng** signifies a King, and **Stable** a Stay or **Cy**; which is as much as to say, the *Stay* of the *King*; that great Officer the *Constable* of *England*, having that Title given by reason of

of the great Authority that he had, was a principal Prop or Stay unto the King's Government; from whence is this Title and Office of this Lower Constableship derived and continued (tho' with lesser Authority unto this hour) and is a Branch of that Original.

By the Statute of *Winchester*, made in the time of King *Edward* the First, these Constables of Hundreds were appointed to keep Watching and Warding, for the better keeping of the Peace, and prevention of Thieveries and Robberies, and apprehensions of Felons and Rogues, *&c.* and that the High Constables in every Hundred and Franchise should take the view of Armor, *&c.*

Hereby it appears, that the Name of a *Constable* in an Hundred or Franchise, is an Officer to assist and support the King's Majesty in the Maintenance and Preservation of his Peace within his Hundred or Franchise, and he is called the High-Constable in respect of the Constables or Petty Constables, and Headboroughs or Tything-men, which be in the respective Towns, Villages, Parishes or Precincts within his Hundred or Franchise under his Jurisdiction; and it is also the part and duty of these inferior Officers to execute the High-Constable's Office in his absence, in maintaining and keeping the Peace in their several Tythings and Limits, and in the High Constable's presence to be aiding and assisting unto him.

The High Constables of every Hundred, or Rape, or Riding, are chosen by the Justices in each County, most usually at their General Quarter Sessions, or in their several Divisions. From the Justices they receive their Authority, and are by them again discharged of their Office as they shall see cause. At the entrance into their Office they take an Oath, the usual Form whereof followeth.

## The High-Constable's Oath.

YOU *shall swear, That you shall well and truly serve our Sovereign Lord the King in the Office of a Constable. You shall see and cause his Majesty's Peace to be well and truly kept, and preserved according to your Power. You shall arrest all such Persons as in your sight and presence shall ride or go armed offensively, or shall commit or make any Riot, Affray or other Breach of his Majesty's Peace. You shall do your best endeavour (upon Complaint to you made) to apprehend all Felons, Barretors, and Rioters, or Persons riotously assembled: and if any such Offenders shall make resistance [with force] you shall levy Hue and Cry, and shall pursue them until they be taken. You shall do your best endeavour, that the Watch in and about your Hundred be duly kept, for the apprehending of Rogues, Vagabonds, Nightwalkers, Evesdroppers, Scouts and other suspected persons, and of such as go armed, and the like; and that Hue and Cry be duly raised and pursued according to the Statute of* Winchester, *against Murderers, Thieves and other Felons; and that the Statutes made for the punishment of Rogues and Vagabonds, and such other idle Persons as come within your Bounds and Limits be duly put in Execution; you shall have a watchful Eye to such Persons as shall maintain or keep any Common House or Place where any unlawful Game is or shall be used; as also to such as shall frequent or use such places, or shall use or exercise any unlawful Games, there or elsewhere, contrary to the Statutes. At your Assizes, Sessions of the Peace or Leet, you shall present all and every the Offences done contrary to the Statutes made* 1 Jacobi, 4 Jacobi, *and* 21 Jacobi Regis, *to restrain the inordinate haunting and tipling in Inns, Alehouses and other Victualling houses, and for repressing*

*pressing of Drunkenness; you shall there likewise true Presentment make of all Bloodsheddings, Affrays, Outries, Rescous, and other Offences commited or done against the King's Majesty's Peace within your Limits: you shall once every year, during your Office, present at the Quarter Sessions all Popish Recusants within your Liberty, and their Children above nine, and their Servants,* (scil. *their Monthly Absence from the Church)* 3 Jac. 4. *You shall well and duly execute all Precepts and Warrants to you directed from the Justice of the Peace of this County or higher Officers; you shall be aiding to your Neighbours against unlawful Purveyances: In time of Hay or Corn harvest, upon request, you shall cause all Persons meet to serve by the day for the mowing, reaping, or getting in of* Corn or *Hay; you shall in* Easter *Week cause your Parishioners to chuse Surveyors for the mending of the High ways in your Parish or Liberty; and you shall well and duly according to your Knowledge, Power and Ability, do and execute all other things belonging to the Office of a Constable, so long as you continue in the said Office.* So help you God.

In this Oath is briefly comprehended the whole Duty of a Constable, and the principal Matters of his Office at large.

The Form of the Petty-Constable or Tythingmans, *&c.* Oath runs thus.

YOU *shall Swear, That you shall well and truly execute the Office of a Tythingman of the Tything of* H. (*or Headborough,* &c.) *his Majesty's Peace in your own Person you shall keep, and see it kept in all others, as much as in you lieth. In the presence of the High-Constable, you shall be aiding and assisting unto him; and in his absence you shall*

*execute his Office, and do all other things belonging to your Office, according to your Knowledge and Power until another be chosen in your room, or you be legally discharged thereof.* So help you God.

There are in several Counties of this Realm other Officers; that is, by other Titles, but not much inferior to our Constables; as in *Warwickshire* a *Thirdborough*, and in other places a *Boroughhead*, in others a *Chief Pledge*.

The Authority of these (as I said) is much like that of the Constables: but yet the Office of the Constable is distinct, and of greater Authority and Respect than these.

But in Towns where there be no Constables, and that the only Officers of the Peace there, be Headboroughs, Thirdboroughs, Borsholders, or such others; and in such cases where their Power and Authority is declared to be equal with the Constable; in all such things their Office is all one in a manner; and divers Statutes do appoint Offenders to be punished by the Constable, or other inferior Officers, which must needs be the Tythingmen, *&c.* 1 *Jac. cap.* 7.

12 *H.*7.*f.*8. The High Constables of Hundreds, are Conservators of the Peace within their several Hundreds and Franchises at the Common Law.

*Brook Peace* 13. *Fitz.* 127. All Petty Constables by virtue of their Office, within their several Liberties of their several Towns, are Conservators of the Peace at the Common Law.

*Barons use of the Law* 5,6. In ancient time High Constables of the Hundreds, and Petty Constables, in every Town, were yearly appointed by the Sheriff in his Turn, and were there sworn.

*Direct. Judges* 29. Constables lawfully chosen, if they shall refuse to be sworn, the Justices of the

e Peace may bind them over to the Assizes or ssions of the Peace, and for such his Contempt is there to be indicted, fined and imprisoned.

8 *Coke* 43. Every Person that is chosen to be Constable, ought to be *idoneus Homo*, a Man apt d fit for the Execution of the said Office; and be *idoneus Homo*, the Law requireth in him ree Qualifications, *viz.*

1. *Honesty*, to execute his Office truly, without Malice, Affection or Partiality.

2. *Knowledge*, to understand his Duty what he ught to do.

3. *Ability*, as well in Estate as in Body, that he may attend and execute his Office diligently, and not neglect the same through Want or mpotency.

For such as are chosen out of the meaner sort, re either ignorant what to do, or stand in awe f the greater; so that they dare not do what hey ought, or else are not able to spare time; herefore they ought to be chosen out of the better sort of Parishioners, and not either by the House, or other Custom.

If a Man be chosen Constable, not able and ualified as aforesaid, he may be dischaged of his aid Office by Law, and another fit Man appointed in his place.

8 *Co.* 42. If Leets chuse unable or unfit Petty Constables, it is cause of Forfeiture of the Leet, nd such choice is void.

14 *Car.* 2. *c.* 12. Two Justices of the Peace may ppoint and swear new Constables, Headboroughs, *&c.* in case of death or removal of such Officers out of the Parish. And if in default of holding Court Leets they continue above the Year, they may be discharged at the Sessions, and others put in.

*Idem Stat.* Constables, Headboroughs and Tythingmen, which are out of Purse for their Charges they may with the Churchwardens and Overseers of the Poor, and other Officers of the Parish, make Rates upon all Occupiers of Land and Inhabitants, and all others chargeable to the Poor, by the Statute of 42 *El.* which being confirmed under the Hands and Seals of two Justices of the Peace, may by their Warrants be levied by Distress and Sale of the Goods of such as refuse to pay the same.

I shall now set forth every particular Branch of the Constables Office, and of the Tythingmen, Headboroughs and Borsholders; their Duties are the same in effect, and their Authority; yet the later are inferiors to the former.

## CHAP. II.

### *The Constable's Office about Affrays.*

IF one makes an Affray or Assault upon another, in a Constable's presence, or in his presence shall threaten to kill, beat or hurt another, or shall be in a Fury ready to break the Peace. In these Cases, the Constable may commit the Offenders to the Stocks, or to some other safe Custody for the present, until such time as he can carry them before some Justice of the Peace, or to the Gaol until they shall find Sureties for the Peace. The Constable may take Security for the Peace, by Obligation to be sealed and delivered to the King's use, which Bond the Constable was to send to the Exchequer or Chancery, from whence the Process should issue to levy the Debt to the King's use, if the Peace were broken. This was the Opinion of three of the Judges of the

he Common Pleas in *Skirret's* Case, *Trin.* 35 *El.* *om. Banc. Rot.* 1458. But *Anderson* Chief Justice id, That the Constable ought to carry the Par-y, that he should see breaking of the Peace, be-ore a Justice to find Sureties for the Peace, which the usual Practice at this day, 3 *H.* 4. 9. & o. *Bacon's use of the Law, fol.* 5. *Dalt. Just. P.* 1. *fol.* 4, 5.

*Dalt. Just. P. c.* 8. *fol.* 33. The Constable, where e seeth an Affray made, or such as are about to nake an Affray, ought to command the Af-frayers in the King's Name, to surcease, and de-part on pain of Imprisonment; and if a Consta-le being present at an Affray, doth not his best ndeavour to part them, it being presented by he Jury at the Sessions of the Peace, such Con-table may be fined for it.

3 *H.* 7. 1. 3 *H* 7. 20. *Lamb.* 136. 38 *E.* 3. 8. *Dalt. J. P. c.* 8. *fol.* 33. If any be dangerously hurt in an Affray, the Constable, or any other may stay the Offender, and carry him to a Ju-stice of Peace, who is either to bail him till the next Gaol-delivery, or to commit him to the Gaol, until it be known whether the Party hurt will live or dye thereof.

*Lamb.* 135. 1 *H.* 7. 7. 3 *H.* 7. 10. If Affrayers will not depart, but do draw Weapons, or give any Blow, the Constable may command Assi-stance of others to cease the Affray; and if they make resistance, may justify the beating and wounding of them; and if either the Constable, or any of his Assistants be killed, it is Murder in the Affrayers.

*Lamb.* 135. 7 *E.* 3. 19. Where there is a great and dangerous Affray, the Constable may make Proclamation in the King's Name, that the Af-frayers shall keep the Peace, and depart. And

if the Affray be in an House, the Constable may break into the House (if the Doors be shut) to see the Peace kept, though none of the Parties have taken any hurt; and if the Affrayers fly into another Man's House, the Constable upon fresh pursuit may break into such House, and apprehend them.

*Dalt. c.* 8. *fol.* 34. *&c.* 118. *fol.* 340. *Cromp.* 146. *b.* & 172. *b.* Where the Affrayers fly into another County, the Constable seeing it, may freshly pursue, or cause them to be pursued, and taken there: and then the Constable may carry them before some Justice of Peace, of the County where they are taken, to find Sureties for the Peace.

And if they flie into a Franchise, only within the same County where the Affray was, the Constable (seeing this) may freshly pursue them, and take them out thence.

*Dalt. J. P. c.* 8. *f.* 34. 38 *H.* 8. After the Affray is over, the Constable cannot arrest the Affrayers without a Warrant; except some Person hath received such hurt there, that he is in danger of death. But before the Affray begun, and at the time thereof, he may arrest them without a Warrant.

*Dalton ibid.* It is not properly an Affray unless some Blow be given or offered to be given; for hot Words is no Affray, neither can the Constable apprehend them for Words, unless they threaten to kill, beat or hurt one another; in such Case the Constable may take such Persons and carry them before a Justice to find Sureties for the Peace, and yet such Threatning is no Affray.

If an Affray, or an Assault be made upon the Constable himself, he may not only defend himself, but may also put the Parties offending in the Stocks till such time as he can carry them to a Justice of Peace, or to the Gaol; and if he be

not

not able to arrest them himself, he may then call others to his Assistance, who may justifie to arrest the Offenders, *Dalt. c.* 8. *f.* 35. 5 *H.* 7. 6.

## CHAP. III.

### *The Constable's Office about Alehouses*, &c.

IF any one keep an Alehouse, or sell Beer or Ale without Licence, he forfeits 20 *s.* to the use of the Poor, to be levied by Distress and Sale of the Offender's Goods, by the Constable and Churchwardens, by Warrant from a Justice of Peace, before whom the Offence is proved; which Goods are to be sold within three days after the Distress taken, and the Overplus to be returned, if any be; and in default of Distress, the Delinquent is to be openly whipped by the Constable. If the Constable refuse, or neglect to execute his Warrant, he forfeits 40 *s.* to the Poor; and the Justice may commit the Constable to the Gaol, until he causeth the Offender to be whipped, or payeth the 40 *s.* to the use of the Poor, 3 *Car.* 1. *c.* 3. *Dalt. J. P. c.* 7. *f.* 31, 32.

If a common Inn-keeper or Alehouse-keeper refuseth to lodge a Traveller, he profering to pay ready Mony for his Victuals, *&c.* the Constable may cause such an Inn-keeper or Alehouse-keeper, to be indicted at the Sessions or Assizes where he may be fined and imprisoned, or the Party grieved may have his Action of the Case against the Inn-keeper or Alehouse-keeper. But they are not bound to lodge or find Victuals without ready Mony first paid, if it be required, 9 *Co.* 87. *b.* 10 *H.* 7. 8. *Dalt. J. P. c.* 7. *f.* 28.

In the Condition of the Recognizance, which every Alehouse-keeper enters into, that is licensed

censed to sell Drink, it is one Clause, That he shall keep one or more spare Beds for lodging of Strangers.

*Were this well looked into, in and about* London, *abundance of forfeited Recognizances would be found; and a great many lazy Knaves, that live at their Ease, by selling Drink, might be set to work for their Livings.*

They are bound likewise not to suffer any Gaming in their Houses or Backsides, which now is the main Prop of most of them; and there they draw in Apprentices and Servants to their ruine: Were they punished according to the Statute for this, these Caterpillars would not swarm so thick as they do.

If any Inn-keeper, Alehouse-keeper or Victuallers do sell less than a full Ale Quart of the best Ale or Beer, or two Quarts of the small for one Peny, he forfeits 20 *s.* for every Offence. If he suffers Townsmen, or others, to sit tipling in his House, he forfeits 10 *s.* for which the Constables and Churchwardens, upon a Warrant from a Justice of Peace, ought to distrain and levy the Forfeitures according to the Statute; and if there be no Distress to be found, or if the Officers neglect within twenty days to certifie the same Default to the Justices, the Officer forfeits 40 *s.* to the use of the Poor, to be levied by Distress on their Goods, by Warrant made to any indifferent Person from any one or more Justices of the Peace, under their Hand and Seal. And for want of Distress, the Justice may commit the Offenders to the Gaol, there to remain till they have paid the said Forfeitures. In all these Cases the Distresses are to be kept six days, and if the Parties do not pay the Forfeitures within that time, then the Distress is to be apprised and sold,

and

and the Overplus returned to the Owners, if any be, 1 *Jac. c.* 9. 1 *Car.* 1. *c.* 4.

If the Constable, or other Officer of the Parish, neglect to serve the Justice's Warrant against Townsmen, or others, for tipling in any Inn, Alehouse or Victualling-house, or against Men for being drunk, *viz.* for tipling, 3 *s.* 4 *d.* and for being drunk, 5 *s.* to be levied by Distress on the Offender's Goods, and Sale thereof after six days default of payment, rendring the Overplus to the Owner; and for want of Distress, and not able to pay, the Tipler is to be set in the Stocks four hours, and the Drunkard six hours; and if in any of these cases the Constable neglect to do his Duty, he forfeits 10 *s.* to be levied by Distress and Sale of his Goods to the use of the Poor. These Offences are to be enquired after within six Months after they are committed, and the Constables, and other Officers of the Parish may be charged upon their Oaths to present them, 21 *Jac. c.* 7. *Dalt. J. P. c.* 7. *f.* 28.

## CHAP. IV.

### *The Constable's Office about Arms*, &c.

IF any Person shall ride, or go armed offensively before the King's Justices, or before any other the King's Officers or Ministers during their Office, or in Fairs or Markets, or elsewhere, by Night or by Day, in Affray of the King's People, and Breach of the Peace; or wear, or carry any Guns, Daggers or Pistols charged; in such case the Constable upon the sight hereof, may seize and take away their Armor, and other Weapons, and cause them to be apprised, and answered to the King as forfeited, and carry them before

before a Justice, to find Sureties for the Peace, 2 *E.* 3. *c.* 3. 7 *R.* 2. 13. 3 *Co. Inst. f.* 162. *Dalt. J. P. c* 9. *fol.* 35, *&* 159.

But the King's Servants in his Presence, Sheriffs, and their Officers, and other the King's Ministers, and such as be in their Companies assisting them in their Office, and all others pursuing Hue and Cry, where any Felony, or other Offences against the Peace be committed, may lawfully bear Armor or Weapons, 2 *E.* 3. *c.* 3.

All High Constables, Petty Constables, and other Officers within their several Parishes, are to be aiding and assisting to such Persons as shall have Warrants from the Lord Lieutenants, or any two of their Deputies under their Hands and Seals, to search for and seize all Arms in the custody and possession of any Person or Persons whom the said Lieutenants or their Deputies shall judge to be dangerous to the Peace of the Kingdom, and to secure the same, and give account thereof to the said Officers; but such search is to be made in the day-time, only between Sun rise and Sun set, and not otherwise, unless it be in Cities and their Suburbs, Towns Corporate, and Market-Towns, or Houses within the Bills of Mortality, in which places search may be in the night, if the Warrant so direct.

No Dwelling-house of any Peer of the Realm is to be searched, unless the Warrant be from the King's Majesty, under his Sign Manual, or in the Presence of the Lieutenant, or one of the Deputy Lieutenants of the said County or Riding. And in all Places and Houses aforesaid, where search is made, in case of Resistance, to enter with force; and such Arms so seised, where the Lieutenants, or their Deputies, or any two

of

of them think fit, may be restored to the Owners again, 14 *Car.* 2. *c.* 3.

The Constables by Warrant under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to levy such Sums, Forfeitures, Penalties and Payments, as shall be charged upon any Person or Persons within their several Liberties, for the furnishing of Arms, Horse or Foot, or Payment of Soldiers, 14 *Car.* 2. *c.* 3. *&* 15 *Car.* 2. *c.* 4.

And where sufficient Distress cannot be had, then the Lord Lieutenants and their Deputies, by like Warrant to the Constable, may commit such Offender to Prison, until he shall make satisfaction according to the said Forfeiture, Payment or Penalty, *ibid.*

## CHAP. V.

*Articles which the High-Constables are to return the Justices at their Sessions, or their Monthly Meetings of the Divisions, and to cause their Petty-Constables, &c. in their several Liberties to make Return thereof unto them.*

1. THey are to return the Names, Sir-names, Additions of Names and Qualities of all Popish Recusants (as well House-keepers as Lodgers) dwelling or residing in any of their said Parishes, Liberties or Precincts.

2. Such Persons as shall continue drinking or tipling in any Inns or Alehouses at any time, and more especially upon the Lord's Day or Holy Days, and such Persons as they shall find drunk, and all such Inn-keepers and Alehouse-keepers as shall entertain them.

3. *Item,*

3. *Item*, The Names of such as shall prophanely swear or curse, with the number of their Oaths, immediately after the committing such Offence, inform the next Justice thereof.

4. *Item*, They are to return such Victuallers or Alehouse-keepers as use Victualling, or selling of Beer and Ale without License.

5. *Item*, Such Persons as suffer any unlawful Games to be suffered in their Houses, Backsides, or Gardens; and also the Names of such as shall play at any of the said Games.

6. *Item*, Such Persons as refuse or neglect to do their Duty of Watching and Warding.

7. *Item*, Such Persons as divide their Houses into several Tenements, and such as do entertain Inmates, who may be an Annoyance to their Neighbours, or likely to bring Charge upon the Parish.

8. *Item*, The Defaults of Petty Constables and Tythingmen, *&c.* for not causing Rogues, Vagabonds and Beggars to be duly apprehended, punished and passed according to the Statute.

9. *Item*, All Masterless Men and Women, living at their own Hands, such as are idle, and will not labour, and can give no good account how they get their Living; all suspicious Persons, Whores, Noctivagants, or Night-walkers, and Mothers of Bastards, which may be chargeable to the Parish.

10. *Item*, The Names of such Persons as refuse to take Apprentices, poor Parish Children to Husbandry, or other Callings, according to Law.

11. *Item*, All such as neglect to make due Rates and Collections for the Relief of the Poor in every Parish, and that cannot, or do not give a

just

uſt account of the Imployment of the Rent and Stock of the Poor.

12. *Item*, Of the Defects in the High-ways and Bridges, with the Names of ſuch as ſhould repair them, and have neglected or refuſed to do their Duty herein.

13. *Item*, Such Scavengers as neglect to do their Office in cleanſing the Streets, to be kept clean within their Liberties; and the Names of ſuch Perſons as commit common Annoyances, by laying of Dung, Soil, Dirt or Aſhes in the Street.

14. *Item*, The Names of all ſuch Perſons as refuſe to pave the Streets before their Houſes, where the ſaid Streets have uſually been paved formerly.

15. *Item*, The Names of all ſuch Perſons as keep any Hogs (to the common Annoyance of his Majeſty's Subjects) in or about ſuch Liberties, Places and Precincts, where Hogs ought not to be kept.

16. *Item*, All ſuch Bakers as put light Bread to ſale, and the Weight thereof: and ſuch Brewers as ſell Beer or Ale to unlicenſed Alehouſe-keepers; all Foreſtallers, Regrators and Ingroſſers of any Corn, Grain, Butter, Cheeſe, Bacon or any other kind of dead Victuals whatſoever.

17. Laſtly, All ſuch Perſons as can prove or teſtifie any of the ſaid Offences, are to be warned to appear before the ſaid Juſtices at their Seſſions or Meetings aforeſaid, to teſtifie their knowledge of ſuch Offences of which they can give Information.

CHAP.

## CHAP. VI.

*The Constable's Office about Foreign Bone-Laces, Cut-work, Imbroidery, &c. and French Goods.*

THE Constables upon Warrant to them directed from the Justices of Peace, or Chief Officers of the Cities, Towns Corporate, *&c.* are to search within their respective Counties, Cities, Towns, *&c.* in the Shops being open, Ware-houses and Dwelling-house of such Person or Persons, who shall be suspected to have any Foreign Bone-Laces, Cut-works, Imbroideries, Fringes, Bandstrings, Buttons or Needle-works made of Thread, Silk or any, or either of them, made in the Parts beyond the Seas, and where they find any such, to seize the same, 14 *Car.* 2. *cap.* 13.

No French Wine, Vinegar, Brandy, Linen Cloth, Silks, Salt, Paper or any Manufactures made of, or mixed with Silk, Thread, Wool, Hair, Gold or Silver, or Leather, being of the Product or Manufacture of any the Dominions of the French King, shall after the 24th of *August*, 1689. during the Term of three Years, or before the end of the first Session of Parliament, next after the expiration of the said three Years, to be imported into *England*, *Wales*, or Town of *Berwick*, or Isles of *Jersey*, *Guernsey*, *Alderny*, *Sark* or Isle of *Man*, mixt, or unmixt with any Commodity of the Product of any other Country; such Importation and vending of the said Commodities imported contrary to this Act, being by the said Act declared a common Nusance: And such Goods are to be seized, and carried into his Majesty's Ware-house, and if upon an Infor-

formation into the Exchequer; the Jury find at they are French Goods, Judgment shall be, hat the Wines and Brandy shall be staved and lt in some River, Stream or Sea, near the ace where they were seized, or shall remain in e Ware-houses, and the other Commodities ublickly burnt and destroyed: The Importers forfeit the value: They in whose Hands they all be seized, or who sold them, the like for e first Offence; and for the second Offence, ouble the value; and after Conviction of the cond Offence, to be incapable to exercise or excute any Office or Imployment about any part f the King's Revenue, or any other Office or ublick Imployment whatsoever.

And if any Person not being a known Merhant, Vintner or Shop-keeper shall sell or expose to sale any of the Commodities aforesaid, and be thereof convicted) shall over and above he aforesaid Penalties, suffer twelve Months mprisonment, without Bail or Mainprize, and ll Ships and Vessels, with their Guns, Tackle nd Furniture in which any of the said Goods hall be imported during the said Term; and also every Bark, Hoy, Lighter, Barge, Wherry, Boat or other Vessel whatsoever, out of which any of the said Goods shall be put on Shore, shall be forfeited, and the Master, or any other Person taking care of such Ship or Vessel, shall forfeit 500 *l.* and also, (being convicted thereof before a Justice of Peace, by the Oaths of two Witnesses) be committed to the next Gaol for twelve Months, without Bail and Mainprize. And all Seamen, Mariners, Watermen, Carmen, Porters, Labourers or other Persons whatsoever assisting in unshipping, carrying or conveying any of the said Goods, upon Proof as aforesaid,

shall

shall be subject to like Imprisonment, or be publickly whipt at the discretion of the Justice of Peace. And all Carts, Wains, Waggons, Carriages, Plough-Teams, Horses or Oxen made use of in the Carriage or Conveyance of any of the said Goods, shall be seized, and upon Proof made before a Justice of Peace of the County where the same were so seized, by the Oaths of two credible Witnesses, that they were assisting in the Carriage or Conveyance of any of the said Goods, the same shall be forfeited, one half thereof to be disposed of to the use of the Poor of the Parish where the same shall be seized, the other half to their use, who shall seize the same. The Informer, who after seizure or stay of the Goods, fraudulently delays the Prosecution, shall forfeit 500 *l.*

All Officers of the Customs, Sheriffs, Mayors, Bailiffs, Constables, and other Officers are injoyned to be aiding and assisting in the due Execution of this Act. See 1 *W.* & *M.*

By 2 *W.* & *M.* For the more effectual putting in Execution the Act for Prohibiting all Trade and Commerce with *France*, it is enacted, That if any Person after the first of *February* 1690. shall sell, or utter by retail in Glass Bottles, or in any other retail Measure, not made of Pewter, and sealed according to Law, any kind of Wine whatsoever, or other Liquor exposed to sale for Wine, or sell the same for a greater price, than by the said Act is appointed, and be convicted thereof by the Confession of the Party, or the Oath of two credible Witnesses, before one or more Justice or Justices of the Peace of the County, City, or Place, where such Offence shall be committed (who are hereby required and impowered to administer an Oath to that purpose) such Person being

ing prosecuted within thirty days after such offence committed, shall forfeit and pay for every such Offence, the Sum of fifty Shillings, which if not paid upon demand, shall be levied by distress and sale of the Goods and Chattels of every such Offender, by Warrant under the Hand and Seal of the Justice or Justices before whom such Conviction shall be made, which Warrant the said Justice and Justices are impowered, and required to grant to the Constable, Headborough, or Tything-man of the Parish, or Place where such Offence shall be committed, who are required and authorised immediately to levy the same, rendring the overplus to the Owner thereof; the said Penalty, Forfeiture, and Mony so levied, to be given to the Informer. But now by 7 and 8 *W.* 3. *cap.* 20. French Goods may be brought in paying the Duties thereby laid on them, for the Term of one and twenty years.

## CHAP. VII.

*The Constable's Office for providing necessary Carriages for his Majesty*, &c.

BY the Statute of 1 *Jac.* 2. It is Enacted, That the Clerk, or Chief Officer of his Majesty's Carriages, shall three days at least before his Majesty's Arrival, by Warrant from the Green-Cloth, give notice in Writing to two or more of his Majesty's Justices of the Peace next adjoyning, to provide such a number of Carts and Carriages from the Places next adjacent, as his Majesty shall have present use of, expressing the certainty of that number, as also the time and place when and where the said Carts and Carriages are to attend; which Carriages shall consist of

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of four able Horses, or six Oxen, or four Oxen and two Horses; for each of which Cart or Carriage the respective Owners shall receive six pence for each Mile they shall go laden: and that in case any of his Majesty's Subjects of the Realm shall refuse to provide and furnish his Majesty, that now is, or his Queen that is or shall be, or his or her Houshold, or her Majesty *Catharine* Queen Dowager, or her Houshold, in their Progress or Removals, with such sufficient and necessary Carriages for their Wardrobe, or other Necessaries, for ready Monies tendred to them, or shall without just and reasonable cause refuse to make their Appearance, with such sufficient Carts and Carriages as are before expressed, that then upon due Proof and Conviction of such neglect or refusal, by the Oath of the Constable or other Officer, or two other credible Witnesses before the said Justices of the Peace of the County, or Mayor, or other Chief Officer of the City or Corporation where he or they inhabit, (which Oath they shall have power to administer) the Party so refusing, shall for such his refusal and neglect, forfeit the Sum of forty shillings to the King's Majesty's use, to be forthwith levied by Distress and Sale of his Goods and Chattels (rendring to the Parties the Overplus upon every such Sale, if there shall be any) by Warrant from the said Justices of the Peace, Mayor or other Officer. No Horses, Oxen, Cart or Wain shall be enforced to travel above one days journy from the place where they receive their Lading, and that ready Payment shall be made in Hand, for the said Carriages, at the place of Lading, without delay, according to the aforesaid Rates: And in case any Justice of the Peace, Mayor, Officer or Constable shall take any Gift or Reward to

spare

ſpare any Perſon or Perſons from making ſuch Carriage, or ſhall injuriouſly charge or grieve any Perſon through Envy, Hatred or Evil-will, who ought not to make ſuch Carriage, or ſhall impreſs more Carriages than he ſhall be directed from the Green-Cloth to do, that then upon due Proof and Conviction thereof, the Party ſo offending, ſhall forfeit the Sum of ten Pounds to the Party thereby grieved, or any other who ſhall ſue for the ſame, to be recovered by Action of Debt in any of his Majeſty's Courts of Record, wherein no Eſſoign, Protection, or Wager of Law ſhall be allowed. And in caſe any Perſon or Perſons ſhall preſume to take upon him or them to impreſs any Horſes, Oxen, Cart, Wain or Carriages for his Majeſty's Service, other than the Perſon ſo impowered, then he or they ſo offending, ſhall upon due Conviction of the ſaid Offence incur and ſuffer the puniſhment contained in the Act of 12 *Car.* 2.

And it is further Enacted, That the High Conſtable or Conſtables, the Mayor, Bailiff, or other Chief Officer, who ſhall be required by this Act, to warn the ſaid Carts and Carriages, as in the ſaid Act directed, do make a Return in Writing to the Clerk or other Officer of the Carriages, of the Names and Places of Abode of every ſuch Perſon who is ſo warned to bring in his Cart or Carriage, to the intent it may be known (in caſe of any failure) who is in default, and the ſaid Conſtables, and other Chief Officer or Officers appointed by this Act, to warn in the ſaid Carriages, as aboveſaid, may be diſcharged and indemnified, and the Defaulters puniſhed, as in this Act provided.

14 *Car.* 2. *c.* 20. For providing Carriages by Land and by Water, for the uſe of his Majeſty's

Navy

Navy and Ordnance, two or more Justices of the Peace, by Warrant from the Lord High Admiral of *England*, or two or more of the principal Officers or Commissioners of the Navy, or the Master of his Majesty's Ordnance, or the Lieutenant of his Ordnance, are to provide Carriages, with Horses and Oxen out of the Country, not being above 12 Miles distant from the place of Lading; the Owners of which Carriages, or their Servants are to receive 12 *d.* a Mile for every Load of Timber, and 8 *d.* a Mile for every Tun of other Commodities. And all such Persons as neglect or refuse to make their appearance, upon Oath thereof made before the Justices, by the Constable, or two Witnesses, the person refusing or neglecting forfeits 20 *s.* to be levied by Distress and Sale of his Goods, by Warrant from the said Justices, Mayor, or other chief Officer, or from the principal Officers or Commissioners of his Majesty's Navy, or Master, or Lieutenant of his Majesty's Ordnance, rendring to the Owner the Overplus, if any be, first deducting the Charge of Distraining.

No Horses, *&c.* or Land-Carriage, shall be forced to travel more days-journy, from the place where they receive their Lading, nor be compelled to continue longer in the Employment, than the said Justices shall appoint; and that ready Mony be paid to the Parties in hand, at the place of Lading, according to the Rates aforesaid, *Stat. ibid*

The said Act of 14 *Car. c.* 20. & 13 *c.* 8. are to continue until the end of the first Session of the next Parliament, and expired, but revived by 1 *Jac.* 2. for seven years, from *June* 21, 1685. and to continue to the end of the first Session of the next Parliament. 4 *&* 5 *W. & M.* continued

for

or seven years from the 13*th* of *February*, 1692. nd to the end of the next Session of Parliament.

## CHAP. VIII.

### *The Constable's Office about Irish Cattle.*

IF any great Cattel, Sheep, or Swine, or any Beef, Pork or Bacon, (except such as is for he necessay provision of the respective Ships or essels in which the same be brought, not exosing the same, or any part thereof to sale) shall y any wise whatsoever be imported or brought om *Ireland*, or any other part beyond the Seas, to the Kingdom of *England*, Dominion of *Vales*, or Town of *Berwick* upon *Tweed*; in such se the Constable, Tythingman, Headborough, hurchwardens, or Overseers of the Poor, or y of them within their respective Liberties, rishes or Places, may take and seize the same, nd keep the same during the space of eight and rty hours, in some publick or convenient place here such seizure shall be made; within which me, if the Owner or Owners, or any for him them shall make it appear unto some Justice Peace of the same County, where the same all be so seized, by the Oath of two credible Vitnesses, that the same were not imported from *eland*, or from any other place beyond the Seas, xcept the Isle of *Man*) then the same, upon e Warrant of such Justice of Peace, is to be dewered to the Owner or Owners without delay, 3 *Car.* 2. *c.* 2.

But in default of such Proof and Warrant, en the same to be forfeited, and one half there to be disposed to the use of the Poor of the rish where the same shall be so found and

seized; and the other part thereof to his or their own use that shall so seize the same, 18 *Car.* 2. *cap.* 2.

Such Cattle as are imported from the Isle of *Man*, (before excepted) into *England*, *&c.* are not to exceed the number of six hundred in one year, and they are to be of no other Breed, than of the Breed of the Isle of *Man*, and all to be landed at the Port of *Chester*, or some of the Members thereof, and not elsewhere, 18 *Car.* 2. *c.* 2.

This Act was to continue for seven years, and from thence to the end of the first Session of the next Parliament: And is now by the Statute of 32 *Car.* 2. *cap.* 2. revived and made perpetual.

But these former Remedies not proving so effectual for the prevention of the Transporting of the Cattle aforesaid, it is further provided, That whensoever, and as often as it shall happen either through any fraudulent Agreement, or unfaithful Connivance of any Constable, Headborough, Tythingman, Churchwardens or Overseer of the Poor, or that it shall happen any otherwise howsoever, that any great Cattle, Sheep, Swine, Beef, Pork or Bacon, after the first Seizure of them, or any of them, by virtue of the aforesaid Act, shall be driven, brought, carried into, or found in any other Parish or Place, than where the same shall be first seized, as aforesaid; That then, and so often, and from time to time it shall and may be lawful to and for the Constable, Tythingman, Headborough, Churchwardens or Overseer of the Poor, of every, or any such other Parish or Place, where such great Cattle, Sheep, Swine, Beef, Pork or Bacon, shall be brought, driven or carried into, or found as aforesaid, to seize, take and dispose of the same, and every, or any of them as forfeited, the one

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oiety thereof to the use of the Poor of such rish or place where such Seizure shall be made, e other to the use the Officer or Officers, who ll seize the same as aforesaid; any other or mer Seizure or Seizures, in any other Parish or rishes, place or places notwithstanding, *Stat. Car.* 2. *c.* 7.

And now by the Statute of 32 *Car.* 2. *cap.* 2. is further provided, That any person may ke such Seizures as well as the Constables, or her Officers or Inhabitants: And that to prent fraudulent Seizures, and Compositions, the zors shall within six days after Conviction and rfeiture, cause the said Cattle, Sheep and Swine be killed; and the Hides and Tallow shall be the Seizor, and the Remainder to be distrited by the Churchwardens and Overseers, angst the Poor of the Parish; where any such at Cattle, Sheep or Swine shall be imported found.

The Seizor, Churchwarden or Overseers failhis Duty, shall forfeit 40 *s.* for every one of great Cattle, and 10 *s.* for every Sheep or ine, which should have been so killed and diuted; one Moiety to the Poor of the said ish, the other to the Informer, to be levied by tress and Sale of the Offender's Goods, by rrant from any one Justice of Peace; and want thereof, the Offender to be committed Gaol for three Months without Bail.

Mutton and Lamb imported shall be subject he like Seizure, and the Importers and Sellers he like penalties, as for Importation of Beef, k or Bacon; and the like of Butter and ese imported from *Ireland*.

f any greater Cattle, Sheep or Swine which been seized, be found alive in any other Pa-

rish or place, they are to be seized again an
killed to the Benefit of the Seizor and the Po
of that Parish or place in manner aforesaid.

English or other Cattle, intermixt with Iri
Cattle, shall be deemed Irish in all respects, p
*Car.* 2. *c.* 2.

## CHAP. IX.

### *The Constable's Office about Conventicles.*

BY the Statute of 22 *Car.* 2. *c.* 1. made agai
Seditious Conventicles; every Constab
Headborough, Tythingman, Churchwarden a
Overseers of the Poor are authorized and requi
ed to levy the Fines assessed by the Justice
Peace, upon those who shall be present at u
lawful Conventicles, upon their Goods and Ch
tels, having first received a Warrant under
Hands and Seals of one or more Justices, or ch
Magistrate, and forthwith deliver the Mony
levied to the same Justice of Peace, or chief M
gistrate. And by Warrant from one or m
Justice or Justices, or chief Magistrate, and
spective Constables, Headboroughs and Tythi
men (Overseers not named) may with w
aid, force and assistance, they think fit, after
fusal or denial to enter, break open into
House, or other place, where they shall be
formed any Conventicle is held, as well wit
Liberties as without, and take into their custo
the persons there unlawfully assembled, to be p
ceeded against according to this Act.

No Peers House is to be searched, unless
presence of a Lord Lieutenant, or two Just
of Peace, whereof one to be of the *Quorum*.

If any Constable, Headborough, Tythingman, Churchwarden, or Overseer of the Poor, shall know, or be credibly informed of any Conventicle within his Precinct, and shall not therefore inform some Justice of the Peace or chief Magistrate, and indeavour the Conviction of the parties, but neglects his Duty, he forfeits 5 *l* to be levied on his Goods: And any person sued for acting by this Law, may plead the general Issue, and give the special matter in Evidence, and shall recover treble costs, 22 *Car.* 2. *c.* 1.

By 1 *W.* and *M.* for exempting their Majesty's Protestant Subjects dissenting from the Church of *England*, from the penalties of certain Laws, it is Enacted, That all persons that take the Oaths and make, and subscribe the Declaration in the said Act mentioned to be taken, shall not be liable to any Pains, Penalties and Forfeitures of 35 *Eliz.* nor 22 *Car.* 2. But, That if any Assembly of persons dissenting from the Church of *England*, shall be had in any place of Religious Worship, with the Doors locked, barred or bolted during any time of such Meeting together, all and every person or persons that shall come to, and be at such Meeting, shall not receive any benefit from this Law, but be liable to all the pains and penalties of all the aforesaid Laws, recited in this Act, for such their Meeting. And also, That if any person dissenting from the Church of *England*, as aforesaid, shall hereafter be chosen, or otherwise appointed to bear the Office of High-Constable, or Petty-Constable, Churchwarden, Overseer of the Poor, or any other Parochial or Ward Office, and such person shall scruple to take upon him any of the said Offices, in regard of the Oaths, or any other Matter or Thing required by the Law to be taken or done, in re-

spect of such Office, every such person shall and may execute such Office or Employment by a sufficient Deputy, by him to be provided, that shall comply with the Laws on this behalf.

## CHAP. X.

### *The Constable's Office about Clothiers.*

CONstables and other Officers upon request are to aid and assist the Wardens and Assistants for regulating the Trade of Worsteds and other Stuffs, called *Norwich* Stuffs, made in *Norwich*, and the County of *Norfolk*, 14 *Car.* 2. *c.* 5.

*They ought to be very vigilant in this business, for there never was such slight and unserviceable Stuffs as now are; to the great Damage of his Majesty's Subjects.*

In the West-Riding of the County of *York* the Constables are likewise by Warrant from the Justices of the Peace, Master and Wardens of the Corporation, or any thirteen of them, to levy such Fines, Penalties and Forfeitures, as shall grow due from any Clothier, by virtue of the Statute aforesaid, by Distress and Sale of the Offender's Goods, rendring the Overplus to the Owner upon demand, 14 *Car.* 2. *c.* 5.

Clothiers must pay their Spinners, and other Workfolks, their Wages in ready Mony, and not in Wares, and shall deliver their Wool in due weight, on pain to forfeit six pence for every Default; and the Carders, Spinners, Weavers and other Workfolks, are to do their Work faithfully, on pain to forfeit double Damage to the Party grieved, 4 *E.* 3. *cap.* 1. *Fitz. P.* 103.

The Master, or Head Officer in a Corporation, where there is no Master, and out of a Corporation, every Justice of Peace, High-Constable and Stewards of Court-Leet, shall hear and determine the Complaints, as well for Non-payment of the Workfolks Wages, as the Damages aforesaid, by examining the parties; for which Damages they have power to commit the Offenders to the Gaol, until the party grieved be satisfied, *Stat. idem.*

The Justices of Peace, and High-Constables, may search any House, or other place for Tenters, Ropes, Rings, Headwrinches, or other Engins for stretching of Cloth, and if they find any, to deface them; and if the Owner use them again, these Officers may take them away and sell them, and give the Mony to the Poor, 39 *Eliz. cap.* 20.

## CHAP. XI.

### *The Constables Office about the Customs.*

BY 14 *Car.* 2. Such person or persons as are authorized by Writ of Assistance, under the Seal of his Majesty's Court of Exchequer, are to take a Constable, Headborough, or other publick Officer inhabiting near the place, and in the day-time are to enter, and go into any House, Shop, Cellar, Warehouse, Room or other place, and in case of Resistance, break open the Doors, Chest, Trunks and other Package. there to seize and from thence to bring any kind of Goods, Merchandize whatsoever, prohibited accustomed, and to put and secure the same in his Majesty's Store-house, in the Port next to such place where the Seizure shall be made, 13 *Car.* 2. *c.* 11.

All Officers belonging to the Admiralty, Captains and Commanders of Ships, Forts, Castles and Block-houses, and all Justices of Peace, Mayors, Sheriffs, Constables and Head-boroughs, and other the King's Majesty's Officers and Subjects whatsoever, whom it may concern, are to be aiding and assisting to all and every person and persons, which are, or shall be appointed by his Majesty to manage his Custom: and if the Officers of the Customs, or any acting in aid of them, shall be sued, indicted, prosecuted or molested, such persons, their Heirs, Executors and Administrators may plead the general Issue, and give the several Acts relating to the Customs, or any of them in Evidence, in any of his Majesty's Courts of Justice, 14 *Car.* 2. *c.* 11.

## CHAP. XII.

### *The Constable's Office about Setting-Dogs*, &c.

THE Constable, Tythingman or Headborough of any place (upon a Warrant under the Hands and Seals of two or more Justices of the Peace) hath power to search the Houses of any persons suspected to keep Setting-Dogs or Nets, for the taking of Pheasants or Partridges, and the Dogs and Nets there found, to take, carry away, detain, kill, destroy and cut in pieces, 7 *Jac. c.* 11. *Dalt. J. P. c.* 37. *fol.* 90.

But they cannot search the Houses of any who have Free Warren, or any Lord of any Manner or such as have 40 *l. per ann.* or more in Freehold or some Estate of Inheritance, or 80 *l. per ann.* for Life, or be worth in personal Estate 400 *l.* These may keep Nets and Dogs to take Pheasants or Partridges in their own Ground, *Stat. idem, Dalt. ibid.*

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4 & 5 *W. & M. cap* 23. All Laws and Statutes n force for the better preservation of the Game f this Kingdom, and every Clause and thing herein not hereby altered or repealed, shall be uly put in Execution.

Constables, Headboroughs and Tything-men y a Justice of Peace his Warrant, may and are equired to enter into, and search (in such manner as by *An Act for the more effectual Discovery nd Punishment of Deer-stealers*, made in the third nd fourth year of their Majesties Reign is provided, in case of Venison or Skin of any Deer or Toyls) Houses of suspected persons not qualified; and in case any Game shall be found, the Offender shall be carried before a Justice of Peace; nd if he do not give a good account how he came thereby, or produce the party of whom he bought it in some convenient time, or some credible person to depose upon Oath such Sale thereof, he shall be convicted of such Offence by the said Justice, and forfeit for every Hare, Partridge, *&c.* or other Game, any Sum, not under 5 *s.* and not exceeding 20. One Moiety to the Informer, and the other to the Poor of the Parish where the Offence was committed, to be levied by Distress and Sale of his Goods, rendring the Overplus; and for want of a Distress shall be committed to the House of Correction for any time not exceeding a Month, nor less than ten days, there to be whipt and kept to labour. And if any person not qualified by Law, do keep or use any Bows, Greyhounds, Setting-Dogs, Ferrets, Coney-dogs, Hays, Lurchers, Nets, Tunnels, Low-bells, Hare-pipes, Snares or other Instruments for destruction of Game, and shall be convicted as aforesaid, he shall be subject to the pains and penalties aforesaid, And if any person

so charged, shall not before the same Justice give such Evidence of his Innocence, as aforesaid, he shall be convicted thereof in like manner as the person first charged therewith is hereby directed to be, and so from person to person, till the first Offender be discovered.

## CHAP. XIII.

### *The Constable's Office about Escapes and Arrests.*

IF a Constable, or any other Officer, which hath a Prisoner in custody for Felony, or Suspition thereof, voluntarily letteth or suffereth the Prisoner go where he will at liberty, (though this be breaking of Prison) yet it is Felony in the Gaoler, Constable, or him that letteth such Prisoner escape; but it is no Felony in the Prisoner: but if such a Prisoner shall escape by the Negligence of his Keeper, and against his Will and Knowledge, then it is Felony in the Prisoner, because a breach of Prison, and the Gaoler or Constable, *&c.* shall be fined by the Judges or Justices for such Escape, *Dalt. J. P. c.* 106. *f.* 272. *Bro. Coron.* 112, 224, 316, 454. *& Bro. Escape* 3. *Stamford f.* 32.

If a Constable, or other Officer, shall voluntarily suffer a Thief (being in his Custody) to go into the Water and drown himself, this Escape is Felony in the Constable, and the Thief is *felo de se*; but if the Thief shall suddenly (without the assent of the Constable) kill, hang, or drown himself, this is then but a negligent Escape in the Constable, and fineable, as aforesaid, *Dalt. J. P. c.* 106. *fol.* 272.

The voluntary letting a Felon escape before he be arrested for the Felony, is no Felony in the party that suffereth him to escape; but if the Constable suffer one to escape, whom he knows hath committed a Felony, he is fineable, if it do not make him accessary, *Dalt. ibid.*

Where a Felony is committed, and one is arrested for the same, or Suspicion thereof, though the Constables, *&c.* shall after have certain intelligence and knowledge that the Party arrested is not Guilty of the Offence; yet they may not set the Party at liberty, for he must not be delivered but by due course of Law, *Cromp.* 40, 44. *Dalt. J. P. c.* 106. *f.* 275.

If a Constable convey a Felon to the Gaol, and the Gaoler will not receive him, then the Constable must bring him back to the Town where he was taken, and that Town shall be charged with the keeping of him until the next Gaol-delivery; and in such case the Gaoler shall be punished by the Justices, *Dalt. J. P. c.* 118. *f.* 340.

The Constable, or other Officer, that shall imprison any Felon in the Stocks, may lock the Stocks, and if need be, may also put Irons on the Prisoner, and when he conveyeth him to the Gaol, or to the Justice, he may pinion him, or otherwise make him sure, so that he cannot escape, *ibid.*

## CHAP. XIV.

### *The Constable's Office about Excise.*

THose Officers under the Commissioners of Excise, called Gagers, are to have the Constable along with them, when they enter by night into the Houses of any Brewer, Inn-keeper, Victu-

aller

aller, *&c.* to gage their Coppers, Fats or Vessels, or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chocolate, Sherbet or Tea, brewed, made or distilled in the said Houses, 12 *Car.* 2. *c.* 23,24.

Such persons as shall be convicted before the Justices of Peace, or Commissioners of Excise, of any Offence and Forfeiture within the Acts for Excise, the Constables, upon Warrant to them directed from the Justices of Peace, are to levy the penalties upon the Goods of the Offenders, by Distress and Sale thereof, rendring the Overplus to the Owners, and for want of Distress, they are to carry the party to the Gaol, there to remain till satisfaction be made, *ibid.*

The Constables are also upon Warrant to them directed, to summon all Alehouse-keepers, *&c.* to appear before the Commissioners of Excise, at such days and places as shall be appointed in the said Warrant from time to time.

## CHAP. XV.

### *The Constable's Office about Fish.*

THE Constables and Churchwardens by Warrant from any one or more Justices of the Peace (where any Offence is committed in destroying the Spawn and Breed of Fish, along the Sea-shore, or in any Haven or Creek, or within five Miles of the Mouth of any Haven or Creek, by Fishing with Nets of less Mesh than three Inches and an half between knot and knot) are to levy the penalty by Distress and Sale of the Offender's Goods, rendring the Overplus to the Owners; the penalty is 10 *s.* and forfeiture of their Nets, 3 *Jac. c.* 12. *Wingat's Abridg. Stat. Tit. Fishers and Fishing.*

The

The Justices of Peace of the Counties of *Worcester*, *Salop* and *Gloucester*, upon their own knowledge, or upon information that any person hath made use of any Net, Engine or Device in the River of *Severn*, whereby any Salmon, Trout or Barbel, under the length appointed by the Statute of 1 *Eliz.* shall be taken or killed, or hath fished with any Net for Salmon, Salmon-mart, Salmon-peal, Pike, Carp, Trout, Barbel, Chub or Grayling, the Mesh whereof is under two Inches and a half square from knot to knot, allowing to each Mesh four knots, or above twenty yards in length, and two yards in breadth, or above fifty yards in length, and six yards in breadth, in the wing of the Net, in the said River from *Ripplelochelake* to *Gloucester Bridge*, or above sixty yards in length below *Gloucester Bridge*, and six yards in breadth in the wing of the Net, or hath fished with two of those Nets fixed together, or used any Net or Device for taking the Fry of Eels, or whereby the Spawn of Fish shall be destroyed, shall issue out Warrants under the Hands and Seals of any two of them in their respective Counties, to the Under Conservators of the said River, or to any Constable, Tythingman or Headborough, to search in the day-time, in all suspected places, for such unlawful Instruments, and to seize them, and bring them to the Quarter Sessions to be burnt or destroyed, 30 *Car.* 2. *c.* 9.

If any Ling, Herring, Cod or Pilchard, fresh or salt, dried or bloated, or any Salmons, Eels or Congers, taken by Foreigners, Aliens to the Kingdom of *England*, shall be imported, uttered, sold or exposed to sale in this Kingdom; in such case the Constable, Headborough, *&c.* or any other person may take and seize the same, and one half thereof must go to the use of the Poor of the

Parish

Parish where the same is so found and seized, and the other half to the use of the party that seizes the same, 18 *Car.* 2.

## CHAP. XVI.

### *The Constable's Office about Forcible Entries*, &c.

IF a Constable, or any private person of the same County do refuse to attend and assist the Justices of Peace, upon request to remove a Force, or to convey the parties to the Gaol, he may be imprisoned for his neglect, and make Fine to the King, 15 *R.* 2. *c.* 2. *Dalt. J. P. c.* 22. *f.* 57.

## CHAP. XVII.

### *The Constable's Office about Hedge-breaking*, &c.

SUch as are convicted before a Justice of Peace, for cutting and taking away of Corn growing, robbing of Orchards, breaking Hedges, and their Procurers and Receivers knowing the same, are to give the party grieved such satisfaction, as a Justice of Peace shall think fit; and if they cannot give such satisfaction, then the Justice may commit the Offenders to the Constable to be whipped for the first Offence, and the like pain for the second Offence; and if the Constable or other Officer do not by himself, or some other, see the same done accordingly, then the Justice may commit such Officer to the Gaol, there to remain without Bail, until he procure the Offender to be whipped as aforesaid, 43 *El. c.* 7.

The Constables, Headboroughs, or other person, in every County, City, Town-Corporate, or other, where they shall be Officers and Inhabitants

tants have power to apprehend, or cause to be apprehended such persons as they suspect, for having, carrying or conveying any Burthen or Bundles of any kind of Wood, Underwood, Poles or young Trees, or Bark of any Trees, or Gates, Stiles, Poles, Rales, Pales, Hedg-wood, Broom or Furze; and any Constable, Headborough, &c. by Warrant under the Hand and Seal of one Justice, may enter into the Houses, Outhouses, Yards, Gardens, or other places belonging to the Houses of such persons as they shall suspect, &c. and where they shall find any, to apprehend the parties suspected for cutting the same, and those in whose custody, *&c.* any such Wood or Underwood shall be found, and carry them before a Justice of the Peace, and if the party cannot give a good account to the Justice how he came by the said Wood, *&c.* by the consent of the Owner, or shall not within the time the Justice shall appoint, prove who he bought it of, then such person shall be deemed convicted of the cutting and spoiling of Wood within the Statute of 43 *Eliz.* and for the Offence shall give such satisfaction to the Owner within such time as the Justice shall appoint, and pay over and above presently to the use of the Poor where the Offence is committed, so much Mony as the Justice shall appoint, not exceeding 10 *s.* And for default of performance hereof, the Justice may commit the Offender to the House of Correction for so long time as he shall think fit, not exceeding one Month, or otherwise to be whipped by the Constable, or other Officer; and for the second Offence, the Offender is to be sent to the House of Correction for one Month, and there held to hard labour; and if he be convicted the third time, then to be punished as an incorrigible Rogue, 15 *Car.* 2. *c.* 2.

If

If any person buy any Burthens of Wood, Underwood, Sticks, *&c.* of any who may justly be suspected to have come by the same unlawfully, upon a Complaint to a Justice, Head-Officer, *&c.* and if upon Examination by Oath, it appears, That the same were bought of such person as aforesaid, the Justice may order the Buyer to pay the treble value thereof to him from whom they were stollen; and for Non-payment the Justice may grant his Warrant to the Constable, to levy the same by Distress and Sale of the Offender's Goods, rendring to the Owner the Overplus, and for want of such Distress, then to commit the party to the Gaol at his own charge, there to remain one Month without Bail, *Stat. ibid.*

None to be punished by this Statute, that have been punished by any former Law for the same Offence, and all Offenders within this Statute, must be prosecuted within six Weeks after the Offence committed.

*Highways.* See *the Office of Surveyors of Highways and Bridges.*

## CHAP. XVIII.

### *The Constable's Office about Stoned-Horses.*

NOne ought to put to feed upon Forests or Commons (except they be Commons where Mares are not usually kept) any stoned-Horse, being above two years old, and not fifteen hands high from the lower part of the Hoof to the upper part of the Wither (every hand containing 4 Inches Standard measure) on pain to forfeit the same Horse, 32 *H.* 8. *c.* 13.

If

If any Stoned-Horse of lesser Stature be put to feed in any such Common (unless it be in Fen-Grounds of the Isle of *Ely*, and of the Counties of *Cambridge*, *Huntington*, *Northampton*, *Lincoln*, *Norfolk* or *Suffolk*, where they need be but thirteen hands high) any Man may seize them to his own use, so that first by the assistance of the Keeper of the Ground, or Constable, Bailiff, Headborough, or other such Officer, in the presence of three other sufficient Men, he be measured, and found lower than the Statute, 32 *H.* 8. *c.* 13. 8 *Eliz. c.* 8. *Wingates Abr. Stat. Tit. Horses.*

Those that refuse to measure, or to be present at measuring do forfeit 40 *s.* apiece for every such default, to be divided between the King and Prosecutor. But note, That an Horse that makes an Escape into such Common, shall not be questioned, so that he stay not above four days after notice thereof at the Owner's House, or in his Parish Church, 32 *H.* 8. *c.* 13.

Forests and Common Grounds must be driven yearly at *Michalmas*, or within fifteen days after, by the Keepers, Constables, or other Officers abovesaid, on pain of forty shillings; and they have power to drive them at any other time of the year, at their pleasure, and such likewise have the Owners of the Ground. And if upon the Drift any unlucky Tits shall be found, they may be killed, 32 *H.* 8. *c.* 13. *Wingates Abr. Stat. Tit. Horses.*

*Note*, That this Act of 32 *H.* 8. *cap.* 13. is not to extend to the County of *Cornwal*, 21 *Jac. cap.* 28.

CHAP.

## CHAP. XIX.

*The Constable's Office about Hue and Cry.*

THE Constables or Tythingmen of every Town, Parish or Village, to whom Hue and Cry shall come, ought to search in all suspected Houses and Places within their Liberties, and as well the Officers, as all other Persons, which shall pursue the Hue and Cry, may take and stay all such persons as in their Search and Pursuit they shall find to be suspicious, and shall carry them before some Justice of the County where they are taken to be examined, where they were at the time of the Felony committed; and if any default be in the Officers, they may be fined by the Justices for their neglect, *Dalt. J. P. cap.* 28. *fol.* 75.

Where a Hundred is sued for a Robbery, and Damages are recovered against one or some few Inhabitants of the Hundred, and the rest refuse to contribute thereunto; in such case two Justices of the Peace (one of the *Quorum*) dwelling within or near the Hundred, may for the levying thereof, set a Tax upon every Parish within that Hundred; according to which the Constables or Tythingmen of every Parish must tax the particular Inhabitants within their Liberties, and then levy the Mony upon such as refuse, by Distress and Sale of their Goods, restoring the Overplus, if any be, and after the Mony is gathered, they are to restore the same to the Justices, or some of them that made the Rate, within ten days, 27 *Eliz. cap.* 13. *Dalt. J. P. c.* 48. *fol.* 132.

That

That Hundred where fresh Suit shall cease, shall answer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *Westminster*, in the Name of the Clerk of the Peace of the County where the Felony was committed; in which case the Death or Change of the Clerk of the Peace, shall not abate the Suit. And this Recovery is to be taxed and levied as the former, 27 *Eliz. c.* 13.

Where any one of the Robbers is apprehended, or where the Action is prosecuted within one year after the Robbery committed, the Hundred is not chargable for the Robbery. Observe likewise, that the Hue and Cry shall not be judged legal, unless the Pursuit be both by Horse and Foot, *Bract. lib.* 3. *fol.* 121. *Dalt. J. P. f.* 133.

He that goeth not at the command of the Sheriff or Constable at the Cry of the County, that is, upon Hue and Cry to arrest Felons after Attainder, shall be grievously fined and imprisoned, *Westm.* 1. *c.* 9. 2 *Co. Inst. f.* 172.

## CHAP. XX.

### *The Constable's Office about Labourers*, &c.

THE Constable in the time of Hay and Corn Harvest, upon Request to him made by any Man that wants Labourers, to get in his Harvest, to prevent loss thereof, may cause all such Artificers as he shall see meet to labour, to serve by the day for Mowing, Reaping, or otherwise, for the getting in of Corn or Hay abroad, according as they seem fit and able to perform. And if such persons shall refuse to work, after they are requested thereunto, the Constable may set them in the Stocks, by the space of two days and

and one night; and if the Constable neglect to perform his Office herein, he forfeits forty Shillings, 5 *Eliz. c.* 14.

No person retained in Husbandry, or in any Arts appointed by that Statute, shall depart after the time of such Retainer expired, out of the City, Town or Parish where he last served, to serve in another without a Testimonial, (*viz.*) in a Town Corporate, under the Hands and Seals of the Magistrate, and two Housholders there; and in the Country under the Hands and Seals of the Constable (or other Officers) and two Housholders of the Town or Parish where he last served; which Testimonial is to be registred by the Minister; for which he is to have two pence, and then to be delivered to the party, 5 *Eliz. c.* 4.

## The Form of a Testimonial for a Servant.

MEmorandum, *That* J. S. *Servant to* J. D. *of* Bramsil *in the County of* Southampton, *Yeoman, is licensed to depart from his said Master, and is at liberty to serve elsewhere, according to the Statute in that case made and provided. In witness whereof we have hereunto set our Hands and Seals this* 25*th day of* August, *in the* 22*d year of the Reign of our Gracious Sovereign Lord King* Charles *the Second,* 1670.

Ri. Turner *Constable of* Bramsil.
R. C. *&* J. D. *Housholders there.*

If it be one that lives with a Woman, then say, [*is licensed to depart from his Mistris or Dame,* as she is;] if the Master be not a Yeoman or Husbandman, but an Handycrafts-man, as Taylor, Smith, *&c.* then name him in the Testimonial.

The

The Master that retains a Servant without such a Testimonial, forfeits 5 *l.* being thereof convicted by Indictment taken in the Sessions of the Peace; and every Servant which sheweth not such a Testimonial to the Chief Officer in a Corporation, or to the Constable or other Officer, Minister or Churchwarden of the place where he is to dwell, may be imprisoned until he procure one, and if he produce not one within one and twenty days next after the first day of his Imprisonment, or if he shall shew a false or counterfeit one, then he is to be whipt and used as a Vagabond, 5 *Eliz. c.* 4. *Dalt. J. P. c.* 31. *f.* 63.

This Statute, as to this particular of Testimonials, is now grown in a manner quite obsolete, so seldom used, that it's scarce known; Although the Penalty in the same be strict and severe, yet it is of good use; and so are a great many penal Statutes more beneficial to the Commonwealth, if they were duly put in execution, especially those enacted to punish the daily Offences of Brewers, Bakers, Alehouses; all such as use false Weights or Measures, Millers, Forestallers, Ingrossers, Regrators, *cum multis aliis*, &c. These are the Caterpillers of the Kingdom.

## CHAP. XXI.

### *The Constable's Office about Malt-making.*

THE Constables and Bailiffs of any Town, ought from time to time to view and search all such Malt as shall be made or put to sale within any of their Liberties, and if they find any being evil made, or mingled with evil Malt, then the Constable or Bailiff, with advice of one Justice of Peace, may sell the same to such persons

sons at such a Rate as the Justice thinks fitting, 2 *E.* 6. *c.* 10. 21 *Jac. c.* 28. 3 *Car.* 1. *c.* 4.

*Stat.* 2 *E.* 6. *c.* 10. There are three sorts of evil and deceitful Malt, *viz*

1. Where Barly and Malt hath not in the making thereof in the Vat, Floor, Steeping and Drying thereof, three Weeks at the least; except it be in *June*, *July* and *August*, and in those Months it must have seventeen days; and under such time it cannot be made wholesome.

2. They ought to take out of every Quarter of Malt half a Peck or more of Dust, by Treading, Rubbing and Fanning the same, before they put the same to sale, or else they forfeit 20 *d.* for every Quarter otherwise sold, to be divided between the King and the Informer.

3. If any Malt shall be put to sale, not well made, according to the limited time, or made of Mow-burnt or Spired Barley, or mixed good and bad together, they forfeit 2 *s.* for every Quarter, to be divided as aforesaid.

This Act extends not to such as make Malt for their own Provision only; and the Forfeitures aforesaid must be prosecuted within one year.

## CHAP. XXII.

### *The Constable's Office about disturbing of Ministers.*

IF any person purposely without Authority disturb a Preacher lawfully licensed, in Preaching, Praying or Administration of the Sacraments, either by Talking, Laughing, Humming or the like; any Constable or Churchwarden of the place ought presently to apprehend the party, and carry him before a Justice of the Peace of the same County, who may commit him to safe custody;

custody; and within six days after (with another Justice of the Peace) they may examine the Matter; and if they find it true by two Witnesses, they must commit him to the common Gaol, there to remain for three Months, and from thence to the next Quarter-Sessions; at which, upon the parties Reconciliation, and entring into Security for one whole year, he may be released, (at the discretion of the Justices;) but if he continue still in his obstinacy, he must continue in Prison, without Bail, till he be penitent, 1 *Mar. Sess.* 3. *c.* 3. *Wingates Stat. Tit. Sacraments, Dalt. J. P. c.* 41. *f.* 103.

He that rescues an Offender in this kind, shall suffer like Imprisonment, and forfeit 5 *l.* and the Inhabitants that suffer such an Offender to escape, being presented before the Justices at their Sessions of the County or Corporation where the Offence was made, do also forfeit 5 *l. Idem.*

## CHAP. XXIII.

### *The Constable's Office about Moss-Troopers.*

THE Constables and other Officers within the Counties of *Northumberland* and *Cumberland*, upon Warrant from the Justices of the Peace, are to levy by Distress and Sale of the Parties Goods (rendring the Overplus to the Owners) all such Sums as shall be charged upon any Person within their several Constableries, by the Justices at their Sessions, for the safeguard of the Counties against the Injury, Theft and Rapine of Moss-Troopers: And the Justices also may examine any complaint against the Constables, or other Officers that shall neglect or refuse, or fail to give Obedience to the Act, or do any thing in disturbance

disturbance thereof, and bind over such person to the Quarter-Sessions, to be proceeded against according to Justice, 13 & 14 *Car.* 2. *c.* 22.

This Act was by 29 & 30 *Car.* 2. *c.* 2. revived and to continue for 7 years, and to the end of the first Session of the next Parliament.

And by 1 *Jac.* continued for 11 years, and from thence to the end of the first Session of the next Parliament.

## CHAP. XXIV.

### *The Constable's Office about the Peace.*

THE Constable ought to do what he can to keep the Peace, but he cannot take Surety of the Peace, at the request of any Man, *H.* 7. *fol.* 18. *a.* *Crompt.* 6. 12.

The Constable or other Officer, before he arrest the party upon a Warrant for the Peace, ought first to acquaint the party therewith, and charge him in the King's Name to go along with him to the Justice, to put in Sureties, according to the Warrant; and if the party refuse so to do, then the Officer ought forthwith to take and convey him to the Gaol, without carrying him to any Justice at all, there to remain till he doth find Sureties; and then at the next Sessions of the Peace, the Officer ought to deliver in his Warrant, and certifie what he hath done therein, *Dalt. c.* 39.

If the party yield to go and find Sureties, then the Officer may not absolutely arrest him, yet he is not bound to go up and down with him till he can get Sureties, but he may keep him till he can get Sureties to come unto him; and if the Party make resistance, or offer to go away afterwards

afterwards, the Officer may carry him to the Gaol, or set him in the Stocks till he can get aid to carry him to the Gaol, *Dalt. 69. f. 166.*

If an Officer having a Warrant from a Justice of Peace, against a Man to find Sureties for the Peace, and do afterwards receive a *Supersedeas* out of the *Chancery* or *King's Bench*, or from another Justice of Peace of the same Country to discharge the same Surety of the Peace; and yet nevertheless the Officer will cause the party to find Sureties by virtue of the Warrant, the party may refuse to give it; and if he be arrested or imprisoned for such refusal, he may have his Action of False Imprisonment against such Officer; for the *Supersedeas* is a Discharge of the former Warrant. *Dalt. J. P. c. 69. f. 168.*

If a Constable be informed, that a Man and Woman be in Adultery or Fornication together, or that a Man and Woman of Evil Report are gone to a supected House together in the Night, the Constable may take company with him, and if he find them so, he may carry them before a Justice of Peace to find Sureties for their Good Behaviour, 13 *H.* 7. 10. *Dalt. J. P. c.* 75. *f.* 189.

If any shall abuse a Constable in the execution of his Office, the Constable may have him bound to the Good Behaviour for it, *Fitz. Bar.* 207. *Imp.* 135.

Any injurious Force or Violence used against the person of another, his Goods, Lands or other possessions, whether it be by threatning Words, furious Gestures, or force of the Body, or any other Force used *in terrorem*, is said to be a Breach of the Peace, *Dalt. c.* 3. *fol.* 9.

## CHAP. XXV.

*The Constable's Office about Physicians.*

THE Constables and other Officers in *London*, and within seven Miles round, are to be aiding and assisting to the President of the College of Physicians, and all persons authorized by the said College, for the due execution of the Laws and Statutes belonging to the said College, upon pain of running into contempt to the King, 1 *Mar. Parl.* 1. *Sess.* 2. *c.* 9. *Wingates Stat. Tit. Physicians.*

## CHAP. XXVI.

*The Constable's Office about the Plague.*

IF any person infected, or being or dwelling in an House infected with the Plague, shall be by the Constable commanded to keep his House, and notwithstanding shall wilfully go abroad, and converse in Company, having an infectious Sore on him, it is Felony, and if such person shall not have such Sore about him, yet for his Offence he shall be punished as a Vagabond, by the appointment of any one Justice of the Peace, and further shall be bound to his Good Behaviour for one whole year, *Wingates Stat. Tit. Plague*, 1 *Jac. c.* 13. *Dalt. J. P. c.* 39. *f.* 91.

The Justices of Peace, or any one of them, and other Head Officers in Corporate Towns within their several Limits, may appoint Searchers, Watchmen, Examiners, Keepers and Buriers for the persons and places infected, and if any person infected, or dwelling, and being in a

Hou

House infected, shall contrary to the commandment and appointment of the Justice of Peace, or Constable, *&c.* wilfully attempt to go abroad or to resist such their Keepers or Watchmen, then may such Watchmen with violence force them to keep their Houses, and if any hurt happen thereupon, the Watchmen shall not be impeached therefore, 1 *Jac. cap.* 13. *Dalt. J. P. cap.* 39. *fol.* 91. *Crompt.* 122. *b.* *Wingates Stat. Tit. Plague.*

If the Constable, or other Officer, wilfully neglect to levy the Mony (by Warrant from two Justices of Peace, upon the Statute for Relief of any Town infected with the Plague) by Distress and Sale of the Goods of such persons as refuse or neglect to pay; then they forfeit for every such Offence 10 *s.* to be imployed to the said Charitable Use, *Wingates Stat. Tit. Plague,* 1 *Jac. c.* 31. *Dalt. J. P. c.* 39. *fol.* 91.

## CHAP. XXVII.

*The Constable's Office about conveying Prisoners to the Gaol.*

AN Offender which is to be conveyed to Gaol, must bear all Charges both of himself and of those that guard him, if he be able; and if he refuse to pay the Charges, or shall not at the time of the Commitment discharge the same, then upon a Warrant from a Justice of Peace, the Constable of the Liberty, or Town where the Offender hath any Goods (being within the same County) may sell so many of the Parties Goods, as in the discretion of the Justice shall be thought sufficient to satisfie the said Charges, the Apprizement to be made by four

Inhabitants of the Parish where such Goods be, and the Overplus to be returned to the Owner, 3 *Jac. c.* 10. *Dalt. J. P. c.* 43. *f.* 104.

And if the Offender have no Goods to defray the Charges, then the Charge must be Torn by the Town or Parish where the Offender was taken, which must be done by Tax made by the Constable, Churchwardens and two or three other Inhabitants; and where there are no such Officers, then four of the principal Inhabitants of the Parish must make the Rate, which being allowed under the Hand of a Justice of Peace, every Inhabitant must pay their proportion, according to the said Rate; and if any refuse to pay, the Constable, Tithingman, or other Officer, by Warrant from a Justice of the Peace, may levy the same by Distress, and (after Apprizement by four of the Inhabitants) may sell the same, rendring to the party refusing the Overplus, if any be, 1 *Jac. c.* 10.

And if the Constable, or other Officer, that makes such Distress be sued, he may plead Justification, and upon a Verdict for the Defendant or a Nonsuit of the Plaintiff, he shall recover treble Damages, besides Costs of the Suit.

*Purveyance*, See *Carriages*, Chap. 7. fol. 21.

## CHAP. XXVIII.

### *The Constable's Office about Quarter-Mony for maimed Soldiers, Prisoners, &c.*

THE Constables and Churchwardens are to levy by Distress and Sale of the Offenders Goods, such Mony as is rated upon any person within their Constablery, for the Relief of

of poor maimed Soldiers and Mariners, rendring the Overplus to the Owner, 43 *Eliz.* 3. *Wingates Tit. Captains and Souldiers.*

And this Mony, so collected, is to be paid quarterly to the High-Constable of the Hundred ten days before every Quarter Sessions, or else the Constable and Churchwardens, their Executors, *&c.* forfeit 20 *s.* And the High Constable is to pay in the Collection Mony (to the Treasurers appointed by the Justices) every Quarter-Sessions, or otherwise he, his Executors, *&c.* forfeits 40 *s.* which Forfeitures are to be levied and imployed by the Treasurer for the encrease of their Stock for uses aforesaid, 43 *El. c.* 3. *&* *Wingates Stat. Tit. Captains and Souldiers.*

The High Constables are to make Quartely Payment at every Sessions unto the Collectors appointed by the Justices, of all such Sums of Mony as are raised in every Parish, and paid to them by the Churchwardens or Constables, for the Relief of the poor Prisoners in the Gaol, under pain of 5 *l.* 14 *El.c.*5. *Wingates Stat. Tit. Prison and Prisoners.*

The Constable and Churchwardens are to levy by Distress and Sale of the Offenders Goods, so much Mony as is rated upon any Person within their Parish, for the Relief of the Prisoners in the King's Bench and Marshalsey, and also of Hospitals and Almshouses, and Relief of the Poor within their County, rendring the Overplus to the Owner; and for want of such Distress, the Justice of Peace may commit the party to Prison, there to abide till it be paid, without Bail or Mainprise, which Mony the Churchwardens are to pay to the High Constable ten days before the end of every Quarter-Sessions; and if the Churchwardens, their Executors, *&c.* fail to

pay this Mony, they forfeit 10 *s.* and if the High Constable, his Executors, *&c.* fail to pay the Treasurers of the County the same Mony at the Quarter-Sessions, they forfeit 20 *s.* which Forfeitures the Treasurers may levy by Distress and Sale as aforesaid, and the Monies to be imployed to the uses aforesaid, 43 *El. c.* 2. *Wingates Stat. Tit. Poor People, Dalt. J. P. c.* 53. *fol.* 135.

## CHAP. XXIX.

### *The Constable's Office about Popish Recusants.*

POpish Recusants above Sixteen years of Age, shall within forty days after their Conviction repair to their usual Dwelling, and not remove above five Miles from thence, on pain to forfeit all their Goods and Lands, and Annuities, during Life; and if they have no certain abode, then are they to repair to the place where they were born or where their Father and Mother dwells, and within twenty days after their Arrival, there to give their Names in Writing to the Minister, Constables and Headboroughs, which Minister is to enter them in a Book to be kept for that purpose, and he, together with the said Constables and Headboroughs, are to certifie the same to the next Quarter Sessions, where the Justice of Peace must cause the same to be inrolled, 35 *Eliz. c.* 2. *Wingates Stat. Tit. Crown.*

The Constables and Churchwardens of every Parish, or the one of them; if there be none such, then the High Constables of the Hundred there, are once every year to present at the General Sessions of the Peace, the monthly absence from Church of every Popish Recusant, and the Names of their Children, being above the Age

of nine years, abiding with their said Parents, and of their Servants, together with the Age of their Children, as near as they can know them, on pain to forfeit respectively for every such default 20 *s.* which Presentment the Clerk of the Peace, or Town Clerk shall record without Fee, on pain of 40 *s.* *Wingates Stat. Tit. Crown.* 3 *Jac. cap.* 4.

If the Minister, Petty-Constable and Churchwardens of any Parish, or any two of them, shall complain to any Justice of Peace, of any person justly suspected for Recusancy, then any such Justice may tender the Oath of Allegiance to the person so suspected; and if he refuse to take it, and be of the Age of eighteen years or above, then the Justice may commit the party to the Gaol, there to remain until the next Assizes or Sessions of the Peace; and if then the party refuse again, he incurs a *Præmunire.* But if it be a Woman Covert, she shall be only imprisoned, there to remain without Bail till she take the said Oath, *Wingates Stat. Tit. Crown, Dalt. Just. P. c.* 45. *Id.* 108. 7 *Jac. c.* 6.

1 *W.* and *M.* No Papist or reputed Papist (refusing to make and subscribe the Declaration enjoyned by 30 *Car.* 2. and the Oaths enjoyned in an Act for removing and preventing all Questions, *&c.* about the Assembling and Setting of this present Parliament) shall at any time after the 15*th* day of *May*, 1689. have or keep in his own possession, or in the possession of any other to his use, or at his disposition, any Horse or Horses above the value of 5 *l.* to be sold, and and that two or more Justices of the Peace, by Warrant under their Hands and Seals, may and shall authorise any person or persons, with the Assistance of the Constable, or his Deputy, or the

Tythingman, or Headborough, (who are required to be aiding and assisting) to search for, and seize for the use of their Majesties, and their Successors, all such Horses.

## CHAP. XXX.

*The Constable's Office about distraining for Rent.*

BY 2 *W. & M.* It is Enacted, That from and after the first day of *June*, 1690. Where any Goods or Chattels shall be distrained for any Rent reserved and due upon any Demise, Lease or Contract whatsoever, and the Tenant or Owner of the Goods so distrained, shall not within five days next after such Distress taken, and notice thereof (with the cause of such taking) left at the chief Mansion-House, or other most notorious place on the Premisses, charged with the Rent distrained for, replevy the same, with sufficient Security to be given to the Sheriff, according to Law, That then, in such case, after such Distress, and notice, as aforesaid, and expiration of the said five days, the person so distraining, shall and may with the Sheriff or Under Sheriff of the County, or with the Constable of the Hundred, Parish or Place where such Distress shall be taken. (who are hereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained, to be appraised by two sworn Appraisers (whom such Sheriff, Under-sheriff, or Constable, are hereby impowered to swear) to appraise the same truly, according to the best of their Understandings; and after such Appraisment, shall and may lawfully sell the Goods and Chattels so distrained, for the best Price can be gotten for the same, toward

satisfaction

satisfaction for the Rent, for which the said Goods and Chattels shall be distrained, and of the Charges of such Distress, Appraisement and Sale, leaving the Overplus (if any) in the Hands of the Sheriff, Under-sheriff, or Constable for the Owners use.

And that it may be lawful for any person or persons having Rent arrear and due upon any such Demise, Lease or Contract as aforesaid, to seize and secure any Sheaves or Cocks of Corn, or Corn loose, or in the Straw, or Hay lying or being in any Barn or Granary, or upon any Hovel, Stack or Rick, or otherwise upon any part of the Land or Pound charged with such Rent, and to lock up or detain the same in the place where the same shall be found, for, or in the nature of a Distress, util the same shall be replevied upon such Security to be given as aforesaid; and in default of Replevying the same, as aforesaid, within the time aforesaid, to sell the same after such Appraisement thereof to be made; so as nevertheless such Corn, Grain or Hay so distrained, as aforesaid, be not removed by the person or persons, distraining to the Damage of the Owner thereof, out of the place where the same shall be found and seized, but be kept there (as impounded) until the same shall be replevied, or sold in default of replevying the same within the time aforesaid.

And, that upon any Pound-breach or Rescous of Goods or Chattels, distrained for Rent, the person or persons grieved thereby, shall in a special Action upon the Case for the Wrong thereby sustained, recover his and their treble Damages and Costs of Suit against the Offender or Offenders, in any such Rescous or Pound-breach, any or either of them, or against the Owners of

the Goods distrained, in case the same be afterwards found to have come to his use or possession.

And it is provided, That in case any such Distress and Sale, as aforesaid, shall be made by virtue or colour of this present Act for Rent, pretended to be arrear and due, where in truth no Rent is arrear or due to the person or persons distraining, or to him or them in whose Name or Names, or Right, such Distress shall be taken as aforesaid; that then the Owner of such Goods or Chattels distrained and sold, as aforesaid, his Executors or Administrators, shall and may by Action of Trespass, or upon the Case, to be brought against the person or persons so distraining, any or either of them, his or their Executors or Administrators, recover double the value of the Goods or Chattels so distrained and sold, together with full Costs of Suit.

## CHAP. XXXI.

### *The Constable's Office about Riots and Routs.*

SHeriffs, Constables, and all other the King's Officers, shall suppress Rioters and imprison them, and all other Offenders against the Peace. 27 R. 2. c 8.

Where three persons or more shall come and assemble themselves together, to the intent to do any unlawful Act with force or violence against the person of another, his Possessions or Goods, as to kill, beat, or otherwise hurt, or to imprison a Man; to pull down a House, Wall, Pale, Hedge or Ditch; wrongfully to enter upon, or into another Man's Possession, House or Land, &c. or wrongfully to cut

ake away Corn, Grass, Wood or other Goods; or to hunt unlawfully in any Park or Warren, or to do any other unlawful Act, (with force or violence) against the Peace, or to the manifest Terror of the People; if they only meet to such purpose or intent, although they shall after depart of their own accord, without acting any thing, yet it is an unlawful Assembly, because of their intention at first, *Bro. Tit. Riot.* 4, 5. *Co. Inst. f.* 176. *Dalt. J. P. c.* 85 *f.* 217.

And if after such Meeting they shall ride, move or go forward, towards the execution of such Act, whether they put their intended purpose in execution or not, this is a Rout. And if they do act any such thing indeed, then it is a Riot.

## CHAP. XXXII.

### *The Constable's Office about Rogues and Vagrants.*

THE Constable, Tythingman or Headborough, assisted by the Minister, and one other of the Parish, is to see (or do it himself) Rogues and Vagabonds, which shall be taken begging, stripped naked from the Middle upwards, and openly whipped till their Body be bloody, and then forthwith to be sent away from Parish to Parish, or Tything to Tything, the next streight way to the place of their Birth; and if that cannot be known, then to the place where they last dwelt, by the space of one whole year, before such punishment; and if that cannot be known, then to the Town through which they passed unpunished: and when they come there, if it cannot be discovered where they were born, or last dwelt, as aforesaid, then are

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they by that Constable to be conveyed to the House of Correction, or Common Gaol of that County, to be imployed in Work, or placed in some Service, and so to continue by the space of one year; or in case they be not able in Body, that Town is to keep them, till they may be placed in some Almshouse within the same County, 39 *El. c.* 4. *Wingates Stat. Tit. Vagabonds, Resolu. Judges Sect.* 717. 2 *Bulstr. f.* 258.

After such punishment, the Vagabond is to have a Testimonial under the Hand and Seal of the Constable, Tythingman, *&c.* and the Minister of the place, testifying the day and the place of his punishment, the place to which he is to be conveyed, and the time limited for his passage thither; which time if by his own default he exceeds, he shall incur the like punishment from time to time, till he arrive at the place limited. The substance of the Testimonial is to be entred by the Minister in a Register Book, which he is to keep for that purpose on pain of 5 *s. Dalt. f.* 129.

## The Form of a Testimonial for conveying a Rogue or Vagabond.

W W. *a sturdy vagrant Beggar (aged about forty years) tall of Stature, red haired, and long lean visaged, and squint-eyed, was this* 24th *day of* A. *in the* 22th *year of the Reign of our gracious Sovereign Lord King* Charles *the Second,* &c. *openly whipped at* T. *in the County of* G. *according to the Law for a wandring Rogue; and is assigned to pass forthwith from Parish to Parish, by the Officers thereof, the next streight way to* W. *in the County of* B. *where he confesseth he was born; and he is limited to be at* W, *aforesaid, within twelve days*

now

*now next ensuing, at his peril. Given under the Hands and Seals of* C. W. *Minister of* T. *aforesaid, and of* J. G. *Constable there, the day and year aforesaid.*

A Justice of Peace alone may under his Hand and Seal make such Testimonial, *Lamb.* 206.

If any Constable, Tythingman or Headborough be found negligent in due the execution of the Act of 39 *Eliz.* aforesaid, he forfeits 10 *s.* for every Default. And such persons as shall hinder the Execution of the Law upon Rogues forfeit 5 *l.* and are to be bound to the Good Behaviour. And if a Constable refuse to receive a Rogue, and to convey him or her to the next Constable; or if he do receive him, and not convey him to the next Constable, he forfeits 5 *l.* and may be bound to the Good Behaviour, 39 *Eliz. cap.* 4. *Dalt. cap.* 47. *fol.* 128. *Resolu. Judges sect.* 13, 14.

Every person shall apprehend, or cause to be apprehended such Rogues as he shall see, or know to resort to his House to beg, or receive any Alms, and him or them shall carry, or cause to be carried to the next Constable; or else shall forfeit for every such Default 10 *s.* and the Constable is to whip and convey such Rogues, as before is directed, on pain of 20 *s.* 1 *Jac. c.* 7. *Dalt. c.* 47. *fol.* 128. *Resolu. sect.* 13, 14.

Two Justices of Peace, (one of the *Quorum*) by Warrant under their Hands and Seals, may cause to be levyed, by Distress and Sale of the Offender's Goods, all the Fines and Forfeitures aforesaid, after Conviction of the Party, which must be either by Confession of the Party; or Proof of two Witnesses before the said Justices, 39 *Eliz. c.* 4. *Dalt. c.* 47. *f.* 149. 1 *Jac. c.* 7.

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Constables or Tythingmen neglecting to search for Rogues upon the Justices Warrant, or to appear at their Meeting, to give an account what Rogues have been punished, or sent to the House of Correction; or if they neglect to convey such to the House of Correction, as by Warrant are to be sent thither, they are lyable to such Fine as the Justices please, not exceeding 40 *s.* 7 *Jac. c.* 4.

Any Justice of the Peace may reward any person or persons, who shall apprehend, and bring before him any Rogue, Vagabond or sturdy Beggar, by granting to such person a Warrant under his Hand and Seal to the Constable or Tythingman of the place through which the Rogue did pass unapprehended; ordering the said Constable, *&c.* to give such person 2 *s.* for every Rogue so taken. And if the Constable, *&c.* refuse to pay it, the Justice of the Peace may proceed against such Officers, according to the Statute of 1 *Jac.* 7. and compel him to pay his Forfeiture by the said Statute. and to allow the said 2 *s.* out of the said Forfeiture, to such person with such further Allowance for loss of time, as the Justice shall think fit, 1 *Jac.* 7. 14 *Car.* 2. *cap.* 12.

If any person shall apprehend any Rogue, at the Confines of any County, which passed through any Parish of another County unapprehended, then the person so apprehending such Rogue must carry him to some Justice of Peace of the County through which he passed unapprehended, who (upon a Certificate under the Hand of some Justice of Peace of the County where such Rogue was apprehended) is to grant his Warrant to the Constable, *&c.* to pay 2 *s.* as aforesaid; which if he refuse or neglect, then the Justice is

to

to proceed against the Constable, *&c.* and cause him to pay 10 *s.* to the Party, or so much thereof for loss of time as the Justice shall think fit, 14 *Car.* 2. *c.* 12.

And also, That whereas Constables, Tythingmen, *&c.* are at great Charges in relieving, carrying with Passes, and conveying Rogues, *&c.* all Constables, Tythingmen, *&c.* so out of Purse, with the Churchwardens and Overseers of the Poor, and other Inhabitants of the Parish, may make a Rate and tax all the Inhabitants of the Parish, which are chargable by 43 *Eliz.* which Rate must be confirmed under the Hands and Seals of two Justices of the Peace. And if any Person refuse to pay his Rate, then the Constable, by Warrant from two Justices of Peace may levy the same upon the Goods of the Party refusing, rendring them the Overplus, if any remain thereof, 14 *Car.* 2. *c.* 12.

All these persons hereafter named, are accounted and adjudged Rogues, Vagabonds and sturdy Beggars: That is to say, All such Persons above the Age of seven years, Man or Woman, Sole or Covert, that wander from their usual place of Abode, abroad, every where begging; or if they do not beg, yet if they wander and loiter about without a lawful Pasport, and give no good account for their Travel, are accounted Rogues, 39 *Eliz. c.* 4. *&* 17. 43 *Eliz. c.* 2. 1 *Jac. c.* 7. 21 *Jac. c.* 28. 7 *Jac. c.* 24. 5 *Eliz. c.* 4. *Dalt. c.* 47. *f.* 123, 124, 125.

All Scholars and Seafaring-men which beg, wandring Persons that use unlawful Games, subtil Craft or Plays, or pretending themselves to have skill in Physiognomy, Palmistry, or the like; or to be Fortune-tellers, or Figure-casters.

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All Proctors, Patent-gatherers, (except for Fire) Collectors for Gaols, Prisoners or Hospitals wandring abroad; Fencers, Bearwards, (those are Rogues in Grain) common Players of Interludes, and Fidlers or Minstrels, wandring abroad.

All Juglers, Hocus Pocus, and Slight of Hand Artists, Tinkers, Pedlars and Petty Chapmen and Glass-men, wandring abroad, especially if they be not well known; or have not a sufficient Testimonial; all counterfeit *Egyptians*, not being Felons; all Persons delivered out of Gaols, which beg for their Fees, or otherwise do travel begging; such as go to or from the Baths, and do not pursue their License, Soldiers and Mariners that beg, and counterfeit a Certificate of their Commanders.

All Labourers which wander abroad out of the Parish, and refuse to work for Wages reasonably taxed, having no living otherwise to maintain themselves; and such as go with a general Passport, which is not directed from Parish to Parish.

All these are accounted Rogues, Vagabonds and sturdy Beggars.

All Servants that depart out of their Service, (*viz.* out of one City, Town or Parish to another, or out one Hundred or County to serve in another) without a Testimonial, or with a false one; and such Persons as are sick of the Plague, and wilfully go abroad in Company, against the command of Officers, are to be punished as Vagabonds; but none are to be sent to the place of Birth or last Habitation, but wandring Rogues. Those which beg in their own Parish, or in High ways, without the appointment of the Overseers) are to be sent to the House of Correction.

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A Wife and Children under seven years of Age, being vagrant, must be placed with the Husband; and if the Husband be dead, then with the Wife where she was born, or last dwelt; and vagrant Children above seven years of Age, must be sent to the place of their Birth; and if the vagrant Parents, with their Children under seven years of Age, be placed at the place of Birth of the Parents, or at the Place of Dwelling; if afterwards the Parents, or either of them die, or run away, yet the Children once serled, must remain there still, and may not be sent to the place of their Birth, though afterwards they attain to the Age of seven years, 39 *Eliz. c.* 4. *Dalt. J. P. c.* 47. *f.* 135. *Resolu. Judges, Sect.* 4, 5.

The Wife being but a vagrant Rogue, ought to be sent to her Husband, though he be but a Servant in another Town or Parish; and the Rogue whose place or dwelling cannot be known, having Wife or Children under seven years of Age, they must go with the Husband to the place where they were last suffered to pass through unpunished; where the Children must be relieved with the Work of their Parents, though their Parent be committed to the House of Correction.

11 *&* 12 *W.* 3. It is Enacted, That after the 24*th* of *June*, 1700. if any Vagabond, Beggar, *&c.* be brought to any Constable or other Officer with a Pass or other Writing, to be relieved or conveyed, such Vagabond, *&c.* shall be taken by the Constable before the next Justice of Peace, who shall carefully examine such persons, and as the case requires, either send them to the House of Correction, or to such Town of the next County as he shall think most proper, giving the

the Constable a Certificate of the persons so ordered to be punished or conveyed, with the manner how and when, and whence conveyed, and with what Assistance.

The said Justices shall tax the Allowance to the Constable on the back of such Certificate, which being delivered to the Chief Constable he is to pay it out of the Gaol and Marshalsea-Mony; Delivering the Receipt for it to the Treasurer of the County, who shall discount the same, and be allowed it on his Treasurers Account. And if the Gaol and Marshalsea-Mony have not a Surplus, the Justices at the Quarter Sessions shall raise the Mony, as they do for Gaols and Bridges, and pay the Chief Constable a Quarters Payment before-hand for the said purpose.

The Petty Constables shall not charge the place for such Relief or Conveyance.

Constables neglecting their Duty, or to apprehend such Vagabonds or Wandring Beggars, shall forfeit 20 *s*. One fourth to the Informer, and three Fourths to the Poor, to be levied by Warrant of any Justice of Peace, on the Oath of one Witness.

This Act to continue three years, from the 24*th* of *June*, 1700. and thence to the end of the next Session of Parliament.

The several Ridings, Divisions of Counties, Liberties and Towns Corporate, shall be taken as Counties at large in the Execution of this Act.

CHAP.

## CHAP. XXXIII.

*The Constable's Office about keeping the Sabbath.*

THE Constable by Warrant from a Justice Peace, (or the Chief Officer of any City, Borough, or Town Corporate) under their Hand and Seal, against such as use unlawful Games on the Sabbath day, as Bull-baiting, Bear-baiting, Enterludes, or other unlawful Exercises within their own Parish, or out of their own Parish at any such Sports whatsoever, may levy the Penalty of 3 *s.* 4 *d.* by Distress and Sale of the Offenders Goods, rendring the Overplus to the Owners; and in Default of Distress, the Constable is to set the Offenders in the Stocks by the space of three hours. Note, That the Party offending in these Games, must be questioned within a Month after the Offence committed, 1 *Car.* 1. *c.* 2. *Dalt. J. P. c.* 23. *f.* 63.

If any one on the Sabbath-day, keep, or be present at any Wrestling, Shootings, Bowlings, Ringing of Bells for pleasure, Mask, Wake, Church-Ale, Dancing, Games, Sport or Pastime whatsoever, they forfeit 5 *s.* if he or she be above fourteen years of Age, and if under that Age, then 12 *d.* by him that hath the Government of the Party, to be levied by Sale and Distress by the Constable, by Warrant from a Justice of Peace, or Chief Officer, as aforesaid; and for want of Distress, to be set three hours in the Stocks. And every Carrier going with his Horses on this day, or Wagoner, Carrier or Waynman going with any Wagon, Cart or Wayn, or Droyer with his Cattle, forfeit 20 *s.* for every Offence, to be levied also by Distress and Sale of

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his Goods, if he be questioned within six Weeks after the Offence done; but there must be but one twenty shillings forfeit for one Journy, although they pass through several Parishes, and this twenty shillings that Parish shall have where the Distress is first taken, 3 *Car.* 1. *c.* 1. *Dalt. c.* 50. *f.* 134.

And if any Butcher by himself, or any for him, shall kill or sell any Victuals upon the Lord's day, he forfeits 6 *s.* 8 *d.* to be levied by the Constable, by Distress and Sale, as aforesaid, upon Warrant from a Justice of Peace, *&c.* the Offence to be questioned within six Weeks after it is committed, and the Parties to be convicted before any Justice of Peace, Mayor or Head-Officer, *&c.* upon their own View, Proof of two Witnesses or more, or the Parties own Confession and the Justice, Mayor, *&c.* may reward the Informer with the third part of the Penalty, 3 *Car.* 1. *c.* 1. *Dalt. J. P. c* 50. *f.* 134.

All Laws in force concerning the Observation of the Lord's day, shall be put in Execution: None shall do any Work, by Labour or Business, that day, (Works of Charity and Necessity only excepted:) and the Offender, if of the Age of fourteen years or upwards, shall forfeit 5 *s.* None shall cry, or expose to sale any Wares that day, on pain to forfeit them: No Drover, Horse-Courser, Waggoner, Butcher, Higler, or their Servants, shall travel on the Lord's Day, on pain to forfeit 20 *s.* no Person shall travel on that day with any Boat, Wherry, *&c.* except on extraordinary occasion to be allowed by a Justice of Peace, or Head-Officer of the place, *&c.* on pain to forfeit 5 *s.* 29 *Car.* 2. *c.* 7.

The Justice of Peace or Chief Officer of the City, Borough, *&c.* before whom the Offender

is

is convicted, by View, Confession, or Oath of one Witness, shall give Warrant to the Constables or Churchwardens, to seize the Goods cried or put to Sale, and to sell them, and to levy the other Penalties by Distress and Sale of Goods, and in case of Inability, *&c.* to set the Offenders in the Stocks for two hours; the Penalties to be to the Poor of the Parish where the Offence is committed, saving that the Justice or Head Officer may reward Informers, the Reward not exceeding a third part of the Penalties. But Prosecution must be made upon this Act within ten days after the Offence committed, 29 *Car.* 2, *c.* 7. Dressing of Meat in Families, Inns, Cooks-shops, *&c.* and crying of Milk before nine in the Morning, or after four in the Afternoon, are not prohibited by this Act, *Ibid.*

No Writ, Process, Warrant, *&c.* shall be served on the Lord's-Day, except for Treason, Felony or Breach of the Peace; but the Service shall be void, and the Party serving it shall answer Damages, as if done without Warrant, *Ibid.*

## CHAP. XXXIV.

### *The Constable's Office about profane Swearing.*

IF any Person or Persons shall profanely Curse and Swear, for every time so offending they forfeit 12 *d.* the Offence to be proved within 20 Days after it is committed, by the Oath of two Witnesses, or by Confession of the Party before any Justice of Peace, or Head-Officer of any City or Town Corporate; who thereupon may sue out their Warrant to the Constables, and Churchwardens and Overseers of the Poor of that Parish where the said Offence shall be committed

mitted, and the said Constables, *&c.* are to levy the Sum and Sums of Mony by Distress and Sale of the Offender's Goods, rendring the Overplus, if any be, to the Owner, 21 *Jac. c.* 20. 3 *Car.* 1. *c.* 4. *Wingates Stat. Tit. Swearing, Dalt. J. P. c.* 55. *f.* 138.

*Note*, Where no Distress is to be had, the Offender, if above twelve years of Age, shall by Warrant, as aforesaid, be set in the Stocks three whole hours; but if the Offender be under the Age of twelve years, and shall not forthwith pay the said Sum of 12 *d. per* Oath, then he or she is to be whipped by the Constable, or by the Parent, or Master, in the Constable's presence, 21 *Jac. cap.* 20. 3 *Car.* 1. *cap.* 4. *Dalt. J. P. c.* 55. *f.* 138.

6 *&* 7 *W.* 3. *cap.* 11. It is Enacted, That if any Person after the 24*th* of *June*, 1695. profanely Swear or Curse in the presence or hearing of any Justice of Peace of the County, or other Head-Officer or Justice of Peace of the City, or shall be thereof convicted by Oath of one Witness, or Conviction of the Party before any Justice of Peace, Mayor, *&c.* The Party offending shall forfeit to the use of the Poor, if Servant, Labourer, Common Soldier, Common Seaman 1 *s.* and every other person 2 *s.* for the second Offence double, and for the third Offence treble.

To be levied by Distress, by Warrant of one Justice. If no Distress, the Party to be set in the Stocks one hour for one Offence; for more than one, two hours, if above sixteen years of Age; if under, to be whipt.

Justice of Peace, *&c.* who wilfully omits the Execution of this Act, forfeits 5 *l.*

None to be prosecuted upon this Act, unless within ten days after the Offence.

This Act to be read in Churches by the Parson the next Sunday after every Quarter-day yearly, immediately after Morning Prayer, under the pain of 20 *s.* for every omission.

Justices of Peace, Mayors, *&c.* shall register in a Book kept for that purpose, all Convictions made before them upon this Act, and the time; and certifie the same to the Quarter-Sessions to be there kept upon Record by the respective Clerks of the Peace, to be seen without Fee.

## CHAP. XXXV.

### *The Constable's Office about Tobacco Planting.*

ALL Sheriffs, Justices of Peace, Mayors, Bailiffs, Constables, and every of them, upon Information or Complaint made to them, or any of them, by any of the Officers of the Customs, or by any other Person or Persons whatsoever, that there is any Tobacco set, sown, planted or growing within their Jurisdictions or Precincts, (except such as is growing in any Physick-Garden of either University, or in any other private Garden, where the quantity of Ground planted exceeds not one half of one Pole, in any Place or Garden) they are within ten days after such Information or Complaint, to cause to be burnt, plucked up, consumed or utterly destroyed, all such Tobacco so set, sown, planting or growing, 12 *Car.* 2. *c.* 34.

And if any Person or Persons shall resist or make forceable opposition against any Person or Persons in the due execution of his Office as aforesaid, every Person or Persons for every such Offence, shall forfeit the Sum of 5 *l.* to be recovered in any Court of Record; and be also committed

committed to the Common Gaol of the County where the Offence was committed, there to remain without Bail or Mainpriſe, until he, ſhe or they do enter into Recognizance to his Majeſty, his Heirs and Succeſſors, with two ſufficient Sureties in 10 *l.* Penalty, not to do or commit the like Offence again, 12 *Car.* 2. *c.* 34. 15 *Car.* 2. *c.* 7.

And now by the Statute of 22 & 23 *Car.* 2. It is further provided, That the Juſtice of Peace ſhall a Month before every Quarter Seſſions, iſſue Warrants to High Conſtables, Petty-Conſtables, and Tythingmen, to make ſearch what Tobacco is then ſown, planted or made, and by whom, and to make Preſentment thereof in Writing upon Oath at the next Quarter-Seſſions; which Preſentment ſhall be a Conviction in Law, unleſs the Party (having ten days notice before the Seſſions) traverſe the ſame there, and find Sureties to proſecute his Traverſe the next Quarter-Seſſions after ſuch Traverſe entred, 22 & 23 *Car.* 2. *c.* 26.

Conſtables, Tythingmen and other publick Officers, ſhall from time to time, within fourteen days after Warrant from two or more Juſtices of Peace, calling to them ſuch as they find convenient, deſtroy all Tobacco planted or growing in any Ground: If ſuch Tobacco be unconſumed fourteen days after Receipt of ſuch Warrant, ſuch Conſtables, Tythingmen, or other Officers reſpectively ſhall forfeit 5 *s.* for every Rod ſo ſet or planted, *&c.* and proportionably for a greater or leſs quantity; one Moiety to the King, the other to him that will ſue for the ſame, 22 & 23 *Car.* 2. *c.* 26.

Perſons refuſing to aſſiſt the Conſtable, *&c.* being convicted before two Juſtices of Peace, ſhall forfeit 5 *s.* to be levied by Diſtreſs and Sale of

Goods

Goods, and for want thereof shall be committed for a Week: And Persons forcibly resisting any Constable, *&c.* being convicted as aforesaid, shall forfeit 5 *l.* to be levied as aforesaid, and in default thereof, shall be committed for 3 Months, 22 *&* 23 *Car* 2. *c.* 26.

Physick Gardens, and Gardens for Chirurgery excepted, as in the former Acts. Persons sued for acting in pursuance of any of these three Acts of Parliament, may plead the General Issue, and give the special Matter in Evidence: This Act is to continue nine years, and from thence to the end of the Session of Parliament then next ensuing, *Ibid.*

Continued 1 *Jac.* 2. for seven years, and from thence to the end of the next Session of Parliament.

## CHAP. XXXVI.

### *The Constable's Office about Weights and Measures.*

ALL Cities, Boroughs, and Market Towns in *England*, ought to keep common Weights and Measures sealed, at which the Inhabitants may weigh freely; and all Foreiners must pay for every Draught under forty pounds, one Farthing; for a Draught between forty and an Hundred, an Half-Penny; and for a Draught between an hundred and a thousand, one Penny; wherewith the Weights are to be maintained; and the Officers which attend that Service are to be rewarded at the discretion of the Inhabitants, 8 *H.* 6. *c.* 5.

Every City which wants such Weights and Measures, forfeits 10 *l.* to the King, every Borough 5 *l.* and every Market Town 40 *s.* and

the Chief Officers of such places (upon request to them made) are to mark and seal such Weights and Measures to any of the King's Subjects taking for the marking of every Bushel one Penny; and none ought to sell with any other Weights and Measures, but such as are marked or sealed, 8 *H.* 6. *c.* 5. 11 *H.* 7. *c.* 4.

The Mayors and Chief Officers in Cities, &c. are once every year, at least, to view all Measures and Weights in their Jurisdictions, and to break or burn such as they find defective; and to punish the Offenders for the first Offence 6 *s.* 8 *d.* for the second, 13 *s.* 4 *d.* and for the third Offence, 20 *s.* and besides, may adjudge the Offenders to the Pillory, 11 *H.* 7. *c.* 4.

## CHAP. XXXVII.

### *The Constable's Office about Watches.*

A Watch is to kept in every Town, Parish, Village and Tything, every Night from *Ascension* till *Michaelmas*, from Sun-set to Sun-rise, which the Constables, *&c.* must constantly cause to be set, and that by two or four Men, according to the greatness of the place, 13 *E.* 1. *c.* 6. *Dalt. c.* 60. *f.* 140. *Poult. Watch* 1.

These Watchmen are to apprehend and examine all Strangers that pass by them in the Night, and if they find cause of suspition of them, then they may secure them till the Morning; and if the Parties refuse to obey the Watchmen, they may levy *Hue* and *Cry* to take them, and upon their resistance, the Watch-man may justifie the beating of them, and set them in the Stocks or Cage till Morning; and then if no suspition be found in the Parties, they may

them go; but if there be found suspition in them, then the Watchmen may deliver them to the Constable, or Tythingmen *&c.* who is to convey them before a Justice of Peace, who after Examination of them, may bind them over, commit or acquit them as he shall see cause. These Watchmen are also to apprehend all such as ride or go armed, and all Rogues, Vagabonds, Noctivagants, Nightwalkers, Evesdroppers, Scouts, *&c.* 1 *Dalt. c.* 60. *fol.* 140. 5 *Ed.* 14. 5 *H.* 7. 5.

These three particulars following, have been held for Law concerning Watches, *viz. Dalt. J.P. c.* 60. *fol.* 141.

1. The Watchmen must be Men of able Body, well and sufficiently armed, and no Man is compellable to watch, unless he be an Inhabitant within the same Town or Parish where he is required to watch.
2. Such as are Inhabitants within the Town, are not compellable to watch at the Will of the Constable, but only when their turn comes, according to the use and custom of the place, which is most commonly by Turn or House.
3. It hath been held by some, That if a Man, who is compellable to watch, shall contemptuously refuse to watch, upon command of the Constable, that in such case the Constable might *ex Officio* set the Party in the Stocks for his Contempt, *Dalt. Ibid.*

But the safest way is for the Constable to resent such Person for his Default at the Assizes r Sessions of the Peace, or else to complain f him to a Justice of the Peace, who may ind the Offender to the Good Behaviour, and

so over to the next Quarter-Sessions, there
answer, *&c.*

## CHAP. XXXVIII.

*The Constable's Office about Executing Warrants.*

THE Constable, or other sworn Officer
whom any Warrant shall be directed
delivered, ought with all speed and secrecy
seek and find out the Party, and then to exec
his said Warrant.

A known sworn Officer (be he Sheriff, Und
Sheriff, Bailiff or Constable, *&c.*) needs not
shew his Warrant to a Man when he comes
serve it upon him, though he demandeth
but if the Justice will direct his Warrant to
Servant, or to another (who is no sworn Offi
to serve it, they must shew their Warrant to
Party, if he demand it, or otherwise the P
may make resistance, and needs not to obey
*Br. Faux Imprisonment* 23.

A sworn and known Officer, if he will
shew his Warrant, yet he ought to declare to
Party the Contents thereof upon serving it,
54. *&* 9. 68.

An Officer giveth sufficient notice what
when he saith to the Party, *I Arrest you in
King's Name*, &c. and in such case the Party
his peril, ought to obey him, though he kn
eth him not to be an Officer; and if he hav
lawful Warrant, the Party grieved may
his Action of False Imprisonment against
6 *Co.* 69.

If a Constable, or other Officer, do arre
Man for the Peace, or the like, before he
any Warrant, and then afterwards doth pro

Warrant (or a Warrant cometh after to him) arrest the Party for the same cause, the first rest was unlawful, and the Officer is liable to Action of False Imprisonment, *Dyer* 244. *t.* 43 *El. c* 6,

Where a Warrant is granted against *I. H.* the n of *T. H.* and the Officer thereupon arresteth *H.* the Son of *W. H.* although in truth he be same Person that offended, and against whom Complaint was made, yet this Arrest is ongful, and the Officer is subject to an Action False Imprisonment, 10 *E.* 4. *f.* 12. *Br. Faux risonment* 38.

If a Constable, or any other Person, hath arred a Man by virtue of his Warrant, which hath from a Justice of the Peace, and then eth his Word, that he will come to him again another time, to go with him to the Justice ording to his Warrant, (and so letteth the ty go) who comes not again at the time apnted, it seems the Officer cannot afterwards est, or take him again by force of his former arrant, because this was done by the consent the Officer; but if the Party arrested had aped (of his own wrong) without the consent the Officer, the Officer may take him again again, upon fresh Suit so often as he escapeth, hough he be out of View, or that he fly into other Town or County, *Cromp.* 214. *a.* & *Cro.* 53. 144.

When an Officer hath received a Warrant, he bound to observe and pursue the effect of his arrant in every behalf and particular, or otherse his Warrant will not excuse him of that ich he hath done.

If a Constable, or other Officer, having a law-Warrant to arrest another, and he shall be

resisted or assaulted by the Party, or by any other Person, then may the Officer justifie the beating or hurting of such Persons, and others (upon his request) may and ought to aid him, 21 *H.* 7. 39.

If a Justice of Peace shall issue out any Warrant for a Matter wherein he hath Jurisdiction, although it be beyond his Authority, yet it is not disputable by the Constable, or other such Officer, but must be obeyed and executed by the Constable, or other Officer, to whom it is brought. As if a Justice of Peace shall send forth his Warrant to arrest one for the Peace or Good Behaviour without cause, the Officer that serves this Warrant, shall not be punished for the executing thereof; but if a Justice of Peace shall make his Warrant to do a thing out of his Jurisdiction, or in a Cause wherein the Justice of Peace is no Judge, if the Officer shall serve such a Warrant, here he is punishable; for the Officer is not bound to obey him, who is not Judge of the Cause no more than a meer Stranger, for the Officer is bound to take notice of the Authority and Jurisdiction of the Judge, 14 *H.* 8. 16. *Br. Faux Imprif.* 8. 10 *Co.* 76. *Cromp.* 74.

But if any Justice sends his Warrant to a Constable, or any other Officer, to bring him to answer all such Matters as shall be objected against him, and doth not specifie the Cause in his Warrant, wherefore he issued forth the same, this Warrant is unlawful, and the Officer is liable to an Action of False Imprisonment if he executes it.

So if a Justice of Peace send a Warrant to take one for Cozenage, to take and bring to a Justice, or to Gaol, one that another doth suspect for Felony, where the Matter is small, or the

Suspicion

uſpicion ſlight, or to licence a Petty Chapman o ſell from Houſe to Houſe, to ſend a Poor body to a place otherwiſe than the Law directs, ſuch kind of Warrants are not warrantable.

All Warrants not ſpecifying the Cauſe, are utterly againſt Law, 4 *Co. Inſt. Tit. de Frangent. priſon.*

*Except for Treaſon, or Warrants from the Council, Secretaries of State, or Lord Chief Juſtice, theſe need not ſet forth the Cauſe for Reaſons of State.*

If a Man ſhall contemn or abuſe the Juſtice of Peace his Warrant, as by caſting it into the Dirt, or treading it under his Feet, *&c.* ſuch Offender may be bound to his Good Behaviour for it, and be indicted and fined, it being a contempt againſt the King's Proceſs. *Crompt.* 144.

# THE
# Churchwarden's-Office.

## CHAP. I.

*The Antiquity of the Churchwarden's Office, and how they are to be chosen.*

THE Antiquity of the Office of a *Churchwarden* (when they first received that Title) is very uncertain; but some are of Opinion, that it was about eighty seven years after *Britain* had received the Christian Faith, which most Historians do agree, was planted here in the Reign of King *Lucius*, in the year of Christ CLXXX, who is hitherto stiled the first Christian King of this Isle; and that *Dionysius* in the year CCLXVII. did divide (both in *Rome* and other places) to Bishops their Dioceses; and Parishes, Churches and Churchyards to Priests, Vicars and Curats; whether at that time, or how long after Churchwardens were instituted, is not certainly known.

But all Authors do agree, that they are very ancient Officers, that these Churchwardens of Parishes are at the Common Law taken in the manner of a Corporation, 12 *H.* 7. *ult.* that is to say, Churchwardens at the Common Law are Persons enabled by that Name to take Moveable

Goods

Goods or Chattels, and to sue, or to be sued at the Law concerning such Goods for the use and profit of their Parish. And they are to take care, see to, and preserve the Goods of the Church, *viz.* The Church-Books, Communion Cups, *&c.* and other decent Ornaments and Furniture of the Church, which they do find there at their coming into their Office.

In the Book of *Constitutions and Canons Ecclesiastical*, agreed upon in the Synod begun at *London*, *Anno Dom.* 1603. and in the first year of King *James*, it is appointed, that Churchwardens, Questmen, Sidemen or Assistants in every Parish, shall be chosen by the joint Consent of the Minister and the Parishioners, if it may be; but if they cannot agree upon such a choice, then the Minister shall chuse one, and the Parishioners another; and without such a joynt or several Choice, none shall take upon them to be Churchwardens; neither shall they continue any longer than one year in that Office, except they be chosen again in like manner; and they are to be yearly chosen in *Easter*-Week, *Canon* 89, 90.

But notwithstanding this *Canon*, where there is an ancient Custom in any Parish for the choice of Churchwardens contrary to the *Canon*, in such case the Custom is to be observed before the *Canon*, as shall be instanced in several Cases hereafter mentioned.

If the Parishioners of a Parish have used time out of mind, *&c* to chuse one Churchwarden, and the Parson or Vicar another, and afterwards a *Canon* is made, that the Vicar shall elect two, and he do so accordingly; and the Parishioners elect one according to their Custom, and the Ordinary disallows him, and confirms the other two chosen by the Vicar, in this case a Prohi-

bition shall be granted, *The Parishioner's Case of* Rovenden *in* Kent, 2 *Rolls f.* 287. *Pasch.* 5 *Jac. B. R.*

A Prohibition was granted against a Churchwarden chosen by the Parson of St. *Magnus* by *London*-Bridge by force of a *Canon*, upon a Surmise, that the Parish had a Custom to chuse two Churchwardens, *Trin.* 7 *Car.* 1. *B.R. between* Shirley *and* Brown, *Rot.* 1391. 2 *Rolls f.* 287.

*Warner*'s Case, *B. R. Pasch.* 17 *Jac.* The like was granted against a Churchwarden chosen by the Parson of St. *Alhallows London.*

*Pasch.* 5 *Jac.* 2 *Cro. Rep.* The Case of the Parishioners of *Walbrook, London.*

*Pasch.* 15 *Car.* 1. *B. R.* The like against a Churchwarden chosen by the Parson of St. *Thomas* in *London*, 3 *Cro. Evelyn*'s Case.

*Pasch.* 4 *Car.* 1. *B. R. Rot.* 420. *Rolls Cases*, 2 *part*, *fol.* 287. The like granted between *Draper* and *Stone* for *Abchurch* in *London.*

An Attorney cannot be made a Churchwarden; but if he be put in, and refuse, and be sued in the Spiritual Court, he may have a Prohibition, *Wilson*'s Case, *Pasch.* 14 *Car.* 1. *B. R.* & *Baker*'s Case, *Trin.* 14 *Car.* 1. *B. R. Rolls Cases*, 2 *part f.* 272.

## CHAP. II.

*The Churchwarden's Office about Profanation of the Sabbath, and of the Church.*

THE Churchwardens are diligently to see that all the Parishioners duly resort to their Parish Church on Sundays and Holy-days and there continue the whole time of Divine Service; and none to walk, or stand idle, or talking

talking in the Church, Church-yard or Church-porch, during that time; and all such as shall be found slack or negligent in resorting to the Church, (having no great or urgent cause of Absence) they shall earnestly call upon them; and if they amend not after due Admonition, they must present their Names to the Ordinary of the place, *Canon* 90. 5 *E.* 6. *c.* 1.

If the Churchwardens find any Person absent from the Church upon Sundays or Holy-days in the time of Divine Service, Preaching, or other Holy Exercise, such Person is to pay 12 *d.* to the use of the Poor. And this extends as well to all Women Covert, as to other Persons; or the Churchwardens may present such Offenders in the Ecclesiastical Court; but they must not pay 12 *d.* and be presented too, 1 *Eliz. c.* 1. *Hob. Rep. f.* 97.

If the Officer find any tipling, in any Inn or Alehouse in the time of Divine Service, then they forfeit 3 *s.* 4 *d.* more for tipling, besides the 12 *d.* for being absent from the Church; and the Master of the House that suffers them to drink, forfeits 10 *s.* which Forfeitures are to the use of the Poor, 4 *Jac. c.* 5.

The Churchwardens, or Questmen, and their Assistants, shall suffer no Plays, Feasts, Banquets, Suppers, Church-Ales, Drinkings, Temporal Courts or Leets, Lay Juries, Musters, or any other profane Usage to be kept in the Church, Chapel, or Church-yard; neither the Bells to be rung superstitiously upon Holy-days or Eves abrogated by the Book of Common Prayer, nor at any other times without good cause, to be allowed by the Minister of the place, and by themselves, *Canon* 88.

Neither

Neither the Minister, Churchwardens nor any other Officer of the Church, shall suffer any Man to preach within their Churches nor Chapels, but such as by shewing their License to preach shall appear unto them to be sufficiently authorized thereunto, *Canon* 50, 85.

And the Churchwardens and Questmen are also to see that in every Meeting of the Congregation the Peace be well kept, and that all Persons excommunicated, and so denounced, be kept out of the Church.

Every of the Persons appointed by the said Act, to take the Oaths of Supremacy and Allegiance, in the respective Court where he takes the said Oaths, shall first deliver a Certificate of his receiving the Sacrament of the Lord's Supper, as in and by the said Act is likewise appointed, under the Hands of the respective Minister and Churchwardens, and shall then make proof of the Truth thereof, by two credible Witnesses at the least upon Oath, 25 *Car.* 2. *c.* 2.

## CHAP. III.

### *Some few Cases concerning Actions for, and against Churchwardens.*

NOTE, As I have said before, the Law doth make Churchwardens a kind of Corporation, and enables them by that Name to take moveable Goods and Chattels, and to sue, and to be sued at Law concerning such Goods for the use and benefit of their Parish; yet they cannot take an Estate of Lands to them by Name of Churchwardens; for if a Feoffment be made to the use of the Churcwardens of *H.* this use is void, for they have no capacity to take such Purchase,

Purchase, *Finch lib.* 2. *cap.* 17. *p.* 179. *Rolls Cases*, 1 *part*, *f.* 393.

Neither can Churchwardens prescribe to have Lands to them and their Successors, for they are no Corporation to have Lands, but for the Goods of the Church only.

If a Man buy a Bell, and hang it up in the Steeple, or do make a Pew, and set it up in the Church, and do neither make any Word or Writing thereof, yet by this is the Bell or Pew dedicated or given to the Church, 11 *H.* 4. 12. 8 *H.* 7. 12.

The Churchwardens have no Action at the Common Law to recover a Legacy, nor any thing which they never had; but if any Goods or Ornaments of the Church, be once in their Possession and Custody, they may maintain an Appeal of Robbery against him that stealeth them, and an Action of Trespass against him that shall wrongfully take them away, although it be the Vicar or Parson himself: and the Damages that shall be recovered thereby, shall be to the use of the Parish, and not to their own use, 27 *H.* 6. 30. & 34. 11 *H.* 4. 12.

But if those Churchwardens (from whom the Goods were so taken) shall happen to die before any Action by them brought for the Goods, the succeeding Churchwardens shall have an Action for the same Goods, *Fitz. N. B.* 91. *K.*

If a Bell be broken, the Churchwardens may have an Action against him that brake it, and shall recover Damages, which shall be to the use of the Parish, and not to their own use.

The Churchwardens have no such property in the Goods of the Church, as thereby to have power to give, sell, release, hurt or impair them, without the assent of the Sidemen or Vestery.

If

If the Churchwardens shall give or impair the Goods of the Church in their Custody, the Parishioners may chuse new ones, who may have an account against their Predecessors, *Finch lib.* 2. *c.* 17. *p.* 179.

If the Organs be taken out of the Church, the Churchwardens may bring an Action of Trespass for the same; for the Organs belong to the Parishioners, and not to the Parson; and therefore the Parson cannot sue the Party in the Ecclesiastical Court that took them, *Trin.* 21 *Jac. B. R. Rolls Cases* 1 *part, fol.* 393.

If the Walls, Windows or Doors of the Church be broken down, or the Trees in the Church-yard be cut down, or the Grafts thereof be eaten up; in this Case the Parson or Vicar, and not the Churchwardens, shall have an Action for it. A Parson may bring his Action for breaking and entring into his House and Close, when it is the Church and Church-yard, 10 *H.* 4. *f.* 9. 8 *H.* 6. *f.* 9.

The Churchwardens by the assent and agreement of the Parishioners may take a a ruinous Bell, and deliver it to a Bell-Founder, and agree with him that he shall have 4 *l* for casting it, and that he shall retain the same till the 4 *l.* be paid: And such Agreement of the Parishioners shall excuse the Churchwardens in a Writ of Account brought against them by their Successors Churchwardens, *Mich.* 37 & 38 *Eliz. B. R.* Method *and* Winnes *Case*, Rolls *Cases*, 1 *part f.* 393.

If the Churchwardens present in the Ecclesiastical Court, That one *A. B.* (one of their Parishioners) is a Railer, and Sower of Discord amongst his Neighbours; in such Case there lies a Prohibition; for this belongs to the Leet, and not to the Spiritual Court, unless such Railing were

were in the Church or Church-yard, *Mich. 16 Jac. C. B. Rott.* 716. *Smith* and *Pannel's* Case.

If the Churchwardens sue in the Ecclesiastical Court for a Church-Way, which they claim to belong to all the Parishioners by Prescription, a Prohibition lies, for this is a Temporal Cause.

If the Churchwardens of *H.* sue *R. A.* in the Ecclesiastical Court, for that he and all those whose Estate he hath in such an House, *&c.* at the Perambulation or Procession of the Parishioners of the Parish, did use to provide a Refreshing for them, with Bread, Cakes, Cheese and Ale, *&c.* and suffer them to rest there; in this Case a Prohibition will be granted, for that they claim it in the nature of a *Corody.*

## CHAP. IV.

### *The Churchwarden's Office about disposing of Seats in their Church.*

THE Churchwardens are to look to the Repair of the Seats in the Church, but the disposing of the Seats in the Body of the Church belongs of common Right to the Ordinary of the Diocess, so that he may place and displace whom he pleases, except in some Cases.

As if a Man and his Ancestors, and all those whose Estate he hath in a certain Messuage, have used time out of mind to repair a certain Isle of the Church, and to sit there, and none else; in such place the Ordinary cannot displace him, because he hath it by Prescription for a reasonable consideration.

If a Man prescribe, that he and his Ancestors, and all those whose Estate they had in a certain Messuage, did use to sit in a certain Seat in the Body

Body of the Church, time out of mind, in consideration that he and they have used time out of to repair the said Seat, if the Ordinary remove him from such Seat, a Prohibition may be brought, for the Ordinary hath no power to dispose of it; for it is a good Prescription, and by intendment a good Consideration for the same.

But if a Man prescribe to have a Seat in the Body of the Church generally, without Consideration to repair the same, in such case the Ordinary may displace him.

But the Ordinary hath nothing to do with the Seats in the Chapels belongin to the Houses of Noblemen, *Trin.* 12 *Jac.C.B.* 2 *Rolls Cases f.*288.

But if a Lay-man by the dissolution of Monasteries hath a Monastery in which there is a Church, parcel of it, and he suffers the Parishioners for a long time to come to it, and do Divine Service, and to use it as their Parish-Church, this (unless for all the whole time the Party hath used to place Men in their Seats himself) shall give Jurisdiction to the Ordinary to order the Seats; for that now in Fact is the Parish-Church, although that before it were not subject to the Ordinary, *Trin.* 12 *Jac. C.B* Buzzard's *Case*, 2 *Rolls f.*228,289.

If there be a Custom in a Parish that twelve of the Parishioners may chuse Churchwardens, which Churchwardens have power by the Custom to repair the Seats, and make new ones in the Body of the Church, and to appoint what Persons shall sit in them; and the Churchwardens so elected, do erect a new Seat in the Body of the Church, and appoint a certain Man to sit there, and afterwards the Ordinary decrees, that another shall have the Seat, here a Prohibition lies; for the Custom hath fixed the Power of disposing the Seats in the Churcwardens, *Pasch.* 16 *Jac. B. R. Barbin* and

*Tredewick's*

*Tredennick*'s Case for a Seat in *Breock* Church in the County of *Cornwal*: But the reason of granting the Prohibition in this Case, was partly because that the Sentence of the Ordinary was, That *Tredennick* should have the Seat to him and his Heirs, and that none should disturb him on pain of Excommunication, which is unreasonable, and by such Sentence he and his Heirs should have it, though they were no Inhabitants within the same Parish, *Rolls Cases*, 2 *part*, *f.* 289.

## CHAP. V.

### *The Churchwarden's Office about Reparations and Rates.*

THE Churchwardens are to see that the Church and Church-yard be well repaired and kept clean; and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for Registring of Christenings, Weddings and Burials in; Fonts, Pulpits, Tables, Chests for Alms, Communion Cups, Ornaments and other Furniture, and a Chest with three Locks and Keys for putting the same in. And they are to provide Bread and Wine for the Sacrament according to the number of the Communicants, 37 *H.* 6. 30. 11 *H.* 7. 27. *Canon* 20, 70, 80, 81, 82, 83, 84, 85.

And they may rate the Parish for Mony to defray their Charges.

Their Rates are to be done by the Churchwardens, with the assent of the greater part of the Parishioners, and upon a general warning given before they meet for that purpose. And the Ecclesiastical Court hath Cognizance of the Reparation of the Body of the Church.

If

If a Man dwell in one Parish, and have Lands in another Parish, which he occupies there, he may be charged for such Lands, for the Reparation of the Church of the Parish where the Lands lie, 5 *Co. f.* 67.

If an Inhabitant of one Parish lease out his Lands which he hath in another Parish, reserving Rent, then he shall not be charged in the Parish where the Lands lie, because there is a Parishioner and Inhabitant who may be charged, *Ibid.*

If a Man live in one Parish and occupy Lands in another Parish, he shall not be charged in that Parish where the Lands lie, for the Ornaments of the Church according to his Land: for the Inhabitants only ought to be rated for them.

Neither can a Man be charged in the Parish where he doth inhabit, for the Lands which he occupieth in another Parish, towards the Reparation of the Church in the Parish where he liveth, because then he might be twice charged, for he may be charged in the Parish where the Land lies.

If a Petty-Chapman take a Stall in the Waste of a Mannor for Rent, within the Market, for two or three hours every Market-day, to sell his Commodities, the Market being held there one day every Week, but he inhabits in another Parish, here he cannot be rated to the Reparation of the Church for such Stall or Standing, *Mich.* 20 *Jac. B.R.* between *Holms* and the Churchwardens of *Kittering* in *Northamptonshire*, resolved, and a Prohibition granted accordingly, *Rolls Cases* 2 *part*, *f.* 289.

If a Citizen of *London* build an House in the Parish of *A.* and inhabit there in the time of Sickness in *London*, and hath not any Land in the Parish, and afterwards he is assessed 20 *s.* for the Reparation of the Church, where others that have a

100 Acres of Land in the same Parish pay but 6 *d.* yet notwithstanding no Prohibition lies in this Case in the Court Christian, because they have the Jurisdiction of the thing; and therefore he must be ordered according to their Law, *Mich.* 5 *Jac. C. B. Sir* Robert Ley's *Case*, 2 *Roll. f.* 289.

If there be a Chapel of Ease within a Parish, and one part of the Parish have used time out of mind to repair the Chapel themselves without the rest of the Parishioners, and there to hear Service, and Marry, and all other things, but only that they Bury at the Mother Church, notwithstanding they must contribute to the Reparation of the Mother Church, *Mich.* 13 *Jac. C. B.*

If some Parishioners be rated, and others are not, and those who are rated, are sued in the Ecclesiastical Court, they must plead this Matter in this Court, for they cannot have a Prohibition.

Where there are five Bells in a Church, and the major part of the Parishioners agree that there should be made a sixth Bell, which is made accordingly, and they make a Rate for the Payment of it, this shall bind the Remainder of the Parishioners, though they did not agree unto it; otherwise any obstinate Persons might hinder any thing intended, and what is fit for the Ornament of the Church, *Heckfield* and *Matlingly*, &c.

Every Man ought to be rated according to his Personal Estate, and not according to his Lands for the Goods and Ornaments of Church; and by a Land Rate for Church Raparations, though the Occupier of the Lands live in another Parish.

These things are accounted Church Reparations, and are to be performed by a Land Rate, *viz.*

The Walls of the Church and Steeple, the Church-yard Walls or Rails, the Windows and

Bars

Bars of Iron, the Glass, the Roof of Timber with Laths, Nails, Prigs, Dogs, and Bolts of Iron, the Covering of Lead, Tile, Slates or Shingles, the Floor with Stone or Paving-Tile, the Doors with Locks, Keys, Ridges, Hooks and Nails; the Furniture of the Steeple, with Stairs, Floors, Bells, Wheels and Ropes; the Pulpit and the Pews and Seats not made by private Men.

These following are to be rated on the Inhabitants of the Parish, and not upon Out-dwellers, *viz.*

The Communion Table, and Coverings thereof, the Communion Cups, the Bread and Wine for the Communicants, the Bible and other Books appointed to be in Churches, the Washing of the Communion Cloths, Candles for Lecture Days, the Surplice, Pulpit-Cloth and Cushion, the Clerk and Sextons Wages, and Expences of the Churchwardens and Sidesmen about the Parish Business.

By the Statute of 22 & 23 *Car.* 2. *cap.* 17. Intituled, [*An Act for the better Paving and Cleansing the Streets and Sewers in and about the City of* London;] it is Enacted, (amongst other things) That where any Church or Church-yard shall be fronting or adjoyning to any of the Streets, Lanes or Passages before mentioned in the said Act, the Persons thereby authorized and appointed, shall rate and assess a reasonable proportion thereof upon the Parish thereunto belonging, the same to be paid by the Churcwardens of every such Parish for the time being, who are by the said Act required to pay the same accordingly in the behalf of the same Parish.

CHAP.

## CHAP. VI.

*Some Cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor.*

THE Churchwardens are to join with the Constables in making of Rates for the Relief of the poor maimed Soldiers and Mariners, and for conveying Prisoners to the Gaol, and to execute Warrants for the same.

The Churchwardens are to joyn with the Constables in chusing of Surveyors for the High-ways, and in the setting down of Days for the Work, and in the Oversight of the High Constables Account for the Mony they do receive upon any Forfeitures about the High Ways. And they may with the aid of two Justices (one of the *Quorum*) force High Constables to account for, and pay in what Mony they have received forfeited for default of High Ways; and to execute the Justices Warrants for the Penalties and Forfeitures about cleansing the Streets, and repairing the High-Ways, 14 *Car.* 2. *c.* 2.

The Churchwardens and Overseers of the Poor are to execute the Justices Warrant for levying the Penalties of 5 *l* upon the Parties Goods that is not buried in Woollen, which Penalty is to be imployed to the use of the Poor, 18 *Car.* 2. *c.* 4.

The Churchwardens in *London*, *Westminster* and Borough of *Southwark*, *&c.* upon every Monday or Tuesday in Easter Week, together with the Constable, Overseers of the Poor and Surveyors of High-Ways in every Parish respectively, or the greater number of them; giving notice, or calling

calling together such other Inhabitants of their Parishes as have formerly born the like Offices, they, or the greater number of them are to make choice of, and shall nominate and appoint two or more able Persons, that are Tradesmen of their Parish, to be Scavengers for the Streets, Lanes, and other open Passages of each Ward or Division within the said Parish for the Year next following, and until others be chosen and settled in their places, 2 *W. & M.*

## CHAP. VII.

*The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present in the Visitation Court.*

THE Churchwardens at the end of their Year, or within one Month after at the most, are before the Minister and Parishioners to give up a just Account of their Receipts and Disbursements; and at their going out of their Office, they are to deliver up to the Parishioners what Mony, or other things of right belonging unto the Church which they have remaining in their Hands, that it may be delivered over by them unto the next Churchwardens, by Bill indented, *Canon* 89.

If the Churchwardens refuse to do this, they may be presented at the next Visitation Court for it, or the succeding Churchwardens may bring their Action of Account against them at the Common Law, and compel them to it; and in this Account they shall be allowed their needful Disbursements and Expences about the Parish Business.

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The Churchwardens, Questmen or Sidesmen shall not be bound to exhibit their Presentments above once a year where it hath been no oftner used, nor above twice a Year in any Diocess whatsoever, except it be at the Bishops Visitation; for the which Presentments of every Parish Church or Chapel, the Register of the Court where they are to be exhibited, shall not receive above 4 *d.* in one year, under pain of Suspension from the execution of his Office the space of one Month for every Offence *toties quoties.* But the Churchwardens may voluntarily present oftner if they please, *Canon* 16.

No Churchwardens, Questmen, or Sidesmen shall be called or cited but only at the time or times before limited, to appear before any Ecclesiastical Judge whatsoever, for refusing at other times to present any Faults committed in their Parishes, and punishable by Ecclesiastical Laws. Neither shall they or any of them (after their Presentments exhibited at any of those times) be any further troubled for the same, except it evidently appear that they did willingly and wittingly omit to present some publick Crime or Crimes, as they knew to have been committed, or could not be ignorant that there was then a publick Fame of them; or unless there be very just cause to call them to explain their former Presentments. And in case of wilful omission. their Ordinaries shall proceed against them in such sort, as in cases of wilful Perjury in a Court Ecclesiastical it is already by Law provided, *Canon* 117.

One of the two times of Presentments is always to be about a Week or Fortnight after *Easter*, at which time also the old Churchwardens are to leave their Office, and new ones are

to

to come in; but the new ones are not to be sworn till the old onss have given in their Presentments; and every Parson or Vicar, or their Curates in their absence, are to join in the Presentment with the Churchwardens, *&c.* and if the Churchwardens refuse to present, then every such Parson and Vicar, or in their absence their Curats may themselves present to their Ordinaries at all such times, and when else they shall think fit, *Canon*, 113, 118.

The Sum of the Articles usually given to the Churchwardens to make their Presentments upon, are these, *viz.*

I. WHether their Church and Chancel, Bells and Ropes be in good Repair, and the Ten Commandments, Lord's Prayer and Creed, drawn out in fair Letters, the King's Arms set up, Assessments made for the Repair of the Church, and who refuses to pay?

*If they have a Font, Communion Table, Carpet, Table-Cloth, Flaggons, with Cups and Cover for Bread and Wine, a Reading-Desk, a Pulpit, with a Cushion and Covering for it, a fit Common Prayer Book of the largest Volume, the Bible in Folio, of the last Translation, with a Book of Homilies, and the of Canons, and a Surplice?*

*If the Tombs, Monuments and Gravestones be safely kept from removing and breaking?*

*A Book of Parchment for Registring Christnings, Weddings and Burials,* &c. *a Chest with three Locks to put the same and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibiting Marriage hung up in the Church?*

*If the Parsonage House, and Out-Houses, be in good Repair, and the Church-yard well fenced to keep out Swine*, &c.

II. *Whether the Parson, Vicar or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Days, preach every Sunday, or read an Homily, Catechise, observe the Fifth of* November, *Thirtieth of* January, *Twenty ninth of* May, *and Second of* September; *and observe Perambulations, or going the Bounds in Rogation Week, preach sound Doctrine, and vent no Sedition against the King or Government; celebrate the Lords Supper three times every Year at least, whereof at* Easter *for one; baptize Infants with Godfathers and Godmothers, visit the Sick, and Pray with them, bury the Dead according to the Book of Common Prayer, Marry none clandestinely, preach in his Gown, be a Man of a sober and chaste Life, a Peace-maker amongst his Neighbours, and one that takes care to reduce Sectaries, Recusants, Separatists, and refractory Persons to the Obedience and Doctrine of the Church; and reads the Book of Canons to the People at least once every year, and the* XXXIX *Articles twice every Year.*

III. *Whether all their Parishioners of due Age resort to the Church to Divine Service, behave themselves reverently there, kneel, stand up, and make Answer to the Rubrick of the Common Prayer Book? Whether any Work, or sell Wares on Sundays or Holydays? Or whether Vintners, Victuallers, Inn-keepers, others do receive any to drink in their Houses in time of Divine Service?*

*Whether any Marry within the Degrees forbidden, be Adulterers, Swearers, Blasphemers, Drunkards?*

*If any above* 16 *years of Age do not receive the Lord's Supper three times a year, whereof* Easter *to be one?*

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*If any keep their Children unchristened, Wom that come not to be churched, or any bring not the Dead to be buried after the Service of the Church Or if any be married without Banes or Licence at u lawful hours?*

*And whether their Almshouses, Hospital, School Spittle, if they have any, be well and godly used, any thing detained from it? What Legacies given pious uses; and if the Parishioners be placed in Pews or Seats without Offence or Contention.*

IV. *Whether their Parish Clerk and Sexton ( they have any) be duly chosen, can Write and Re be of an honest Life, and make the Responses to Hymns and other Suffrages?*

*And if the Schoolmaster, Physician, Chirurge and Midwife (if they have any) teach or practi without License? If the Churchwardens be duly cho according to the Canon or Custom? And if the Churchwardens have been diligent to keep the Chur in good Repair, to preserve all the Furniture there and walk out of the Church usually about the midst Divine Service, to see who are abroad in Alehous or elsewhere absent or evilly imployed.*

These are the Heads of most of the Artic that are inquired of at the Visitation Court but it is probable there may be some small al ration, according to the use of the several Di cesses in several places.

T H

# THE OFFICE OF THE Overseers of the Poor.

## CHAP. I.

*f the Antiquity of these Officers, of their Qualifications, and how, and when to be chosen.*

THose to be chosen to this Office, ought to be substantial Persons, Men of Wisdom and a good Conscience; they must e Housholders, for this Name and Office may seem the Best, and not the meanest Men, (it ing an Office of great Antiquity and Excelncy;) For as God himself hath a special Reect to the Miseries of the Poor, so they be e God that provide for the Necessities of the oor, *Dalt. J.* P. 143.

The Overseers of the Poor are to be chosen rly, and joyned with the Churchwardens of e Parish in the oversight and ordering of the oor of the Parish. They are to be chosen by o or more Justices of the Peace, (one wherto be of the *Quorum*) who are yearly under ir Hands and Seals at Easter, or within one

Month after, to appoint four, three, or two substantial Housholders; according to the greatness of the Parish, to be joyned with the Churchwardens to look to the Poor of the Parish, Stat. 43 *Eliz. c.* 2. 21 *Jac. c.* 28.

The major part of these Officers, without the rest of them, may do any thing belonging to their Office. But they are to have the allowance and consent either in particular, or in general, of two Justices of the Peace (*Quor. unus*) to every thing they do about their Office. And these Officers, or such of them as shall not be let by just excuse (to be allowed by two Justices) are to meet monthly in the Church, on Sunday after Evening Prayer, and there are to consider of some meet directions about their Office, and they are to use all possible diligence in their Office on pain to forfeit for every such Default twenty shillings 43 *El. c.* 2. *Wingates Stat. Tit. Poor People.*

And if it happen that Overseers be not appointed according to the 43 *El.* then every Justice of Peace, or Head Officer of that Division or Corporation shall forfeit 5 *l.* to be levied by a Sessions Warrant, and imployed to the use of the Poor of the Parishes where such default is made, 43 *El. c.* 2. *Wingates Stat. Tit. Poor People.*

## CHAP. II.

*Of the several sorts of Poor People, and what Poor the Overseers are to provide for, and relieve, or set to work*

THere are three sorts or degrees of Poor as first, the Poor by Impotency and Defect, as the Aged and Decrepit that are past their Labour; the Infant, Fatherless and Motherless

therless and not able to work; the Person naturally disabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, *&c.* not being able to work, and the Person visited with grievous Sickness or Disease, though casually, yet thereby for the time being impotent. All these the Overseers are to provide for, that they have necessary Relief, and Allowances proportionable, and according to the continuances and measure of their Maladies and Needs, and of these it may be said, *Si non Pavisti, occidisti, Dalt. J. P. c.* 73. *f.* 169.

Then secondly, The Poor by Casualty, as a Person casually disabled or maimed in his Body, as the Soldier or Labourer, *&c.* maimed in their lawful Callings, the Housholder decayed by casualty of Fire, Water, Robbery, Suretiship, *&c*, and the Poor Man over-charged with Children: All these (and such like others) having Ability, and strength of Body, but not sufficient Means to maintain themselves, are to be set to work by the Overseers, and being not able to live by their Work, they are in Charity to be relieved in some reasonable proportion, according to their several Wants and Necessities, *Dalt. J. P. c.* 73. *f.* ibid.

Then lastly, The thriftless Poor, as the riotous and prodigal Person, that consumes all with Play or Drinking, *&c.* the dissolute Person, as the Strumpet, Pilferer, *&c.* the slothful Person that refuseth to work, *&c.* and the Vagabond that will abide in no place or service; and for all these the House of Correction is the place where they are to be sent to, and being of able Bodies, there they are to be held to hard Labour and to maintain themselves by their Labour and Work, without charging the Town or County for any Allowance, 7. *Jac. c.* 4. *Dalt. J. P. c.* 73. *fol.* 170.

But it seemeth, that if any of these last sort of Poor happen to prove impotent, and also in cases of manifest extremity, then they are to be relieved by the Town, *Dalt. J. P. c.*73. *f ibid.*

If the Parents be able to work, and may have Work, they are to find their Children by their labour, and not the Parish; but if they be overcharged with Children, they may help it, by having some of their Children put out Apprentices by the Overseers, *Dalt. J. P. c.* 73. *f.* 157

The Father, Grandfater, Mother, Grandmother, and the Children and Grandchildren of every Poor impotent Person not able to work, being of sufficient Ability, shall relieve such poor Persons in such manner, as the Justices of Peace of that County (where such sufficient Person dwelleth) at their General Quarter Sessions shall Assess; and if such Person refuse to abide the the Order, they forfeit 20 *s.* for every month to the Poor of the Parish, which Forfeiture is to be levied by the Churchwardens or Overseers, or one of them, by Warrant from any two Justices of the Peace (*Quor. unus*) within their Limits, by distress and sale of the Offenders Goods, and want of distress, any two such Justices may commit the Offender to prison, there to remain without Bail till the said Forfeiture be paid, 43 *El.* 2 *Resol. Judges* 16,17. *Dalt. J. P. c.* 73. *f.*156.

But if a Man marry a Grandmother that hath no Estate, the Grandfather in Law is not chargable: But if she hath an Estate caused without such Marriage, or that comes after Marriage by descent, or otherwise to her, here he may be charged: But where they have raised themselves an Estate by their own industry, there it is doubtful. But in no case shall he be charged longer than his Wife lives; and it seems also Bastard

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Children are not within this Law, neither can the Justices do any thing therein against a Man that lives out of their County. *See Bulst. Rep. 2. part, f.* 245, 246, 247.

No Poor may beg but in their own Parish, and there by Licence of the Overseers of the Poor; and they may not licence them to beg in the High-ways there, and without the Licence of the Overseers they may not beg at all, *Ref. Judges* 15. *Dalt. J. P.* 73. *f.* 157. 39 *El.* 3.

No Inhabitants may serve any Poor at their Door, but those of their own Parish, that have licence from the Overseers of the Poor to beg there, under pain of 10 *s.* for every time they do so, 1 *Jac.* 7. *Dalt. J. P. c.* 83. *f.* 220.

These Officers are to make provision for a poor Man that wants an House (but not for a common Herdsman or Sheperd) with consent of the Lord of the Mannor first had in writing under his Hand and Seal, either by themselves, or with Sessions Order, may erect a Cottage upon any part of the Waste of a Manner, and lodge Inmates therein, notwithstanding the Stat. 31 *El.* 7. but such Cottage may not be afterwards employed otherwise than to lodge impotent Persons there, for if it be, then it falls within the penal of the 31 *El.* aforesaid, 43 *El. c.* 2. *Wingates Mat. Tit. Poor People.*

All such Persons married or unmarried, having no Means to maintain them, using no ordinary and daily Trade of Life to get their Living by, and such Persons also as can get no Work, are to be set on Work by the Overseers; and any one Justice of Peace may send to the House of Correction, or Common Goal, such as shall not imploy themselves to work being appointed thereto by the Churchwardens and Overseers of the Poor of

the Parish, 43 *El. c.* 2. *Dalt. J. P. c.* 73. *f.* 143.

And to this purpose the Churchwardens and Overseers of the Poor may, by, and with the consent of two or more Justices of the Peace (*Quorum*) &c. Set up, use, and occupy any Trade, Mystery or Occuption, only for the setting on Work, and better Relief of the Poor of the Parish, Town or Place where they are Overseers, *&c.* 3 *Car.* 1. *c.* 4. *Dalt. J. P. c.* 73. *f.* 148. *Wingate Stat. Tit. Poor People.*

## CHAP. III.

*The Duty of the Overseers, about putting forth, and binding Apprentices, with the Form of the Indenture for that purpose.*

IN the putting out of Children Apprentices, there ought to be regard had to the Master, the Child, and the Parents; First, to the Master, that he be of Ability and Honesty, otherwise by some device or hard intreaty they may provoke their Apprentices to depart or run away; and regard is also to be had to his Trade or Faculty, lest, the Apprentice consume his time without learning any thing: Secondly, Regard is to be had to the Apprentices to put them out timely, and while they are young and tractable (so that they be above the Age of seven years, otherwise by reason of their idle and base Educations, they will hardly keep their Service, or imploy themselves to work: Then lastly, Regard is to be had to the Parents, to take away such from them as are brought up to live idly and loosly, or else such as are a burthen and charge to their Parents. *Dalt. J. P. c.* 73. *f.* 150, 151.

The choice of these Apprentices, are to be out of the poorest sort of Children, whose Parents are the least able to relieve them, and they are to be above 7. and under 15 years of Age, when they are first bound, 7 *Jac. c.* 3. *Wingates Stat. Tit. Poor People.*

And these Officers are to have the consent of two Justices of the Peace in the placing out of such Apprentices; and they may bind the Man-child till 24 years of Age, and the Woman-child, till 21 years of Age, or till she be married, which shall first happen: And these Apprentices may be bound to Weavers, Masons, Dyers, Fullers, or any other Trade, as well as to Husbandry or Housewifery, See 43 *El. c.* 2. *Dalt. J. P. c.* 73. *f.* 143. *Wingates Stat. Tit. Poor People.*

Now this placing of Apprentices may be to any Man, whom the Officers and Justices think fit to receive them, within the same Parish, or else, where in other Parishes within the same Hundred, either with, or without Mony; therefore it is fit in this case to consider, if the Child be young, and the Party to whom they place it is not very able, then they may give Mony, if they please, as the Party and they shall agree, *Res. Judges* 1633. *Quest.* 1.

All Men that have, or may have use for Servants, as Knights, Clergy-men, Gentlemen, and Yeomen, as well as Tradesmen, are bound to take Apprentices; yet, though wealthy Men Table themselves, or live so privately, that they have no use for a Servant, yet they may be compelled to take them, or else to pay a Sum of Mony for putting them Apprentices elsewhere; and if they refuse to pay the Sum imposed upon them, two Justices of the Peace may make their Warrant to levy the same by distress and sale of the Of-

fenders Goods, *Res. Judges* 1633. *Quest.* 4. *Poult.* 24. *Dalt. J. P. c.* 73. *f.* 151.

Or the Refusers to take Apprentices, may be presented and indicted for the same, upon the *Stat.* 43 *El. c.* 2. at the Assizes or Sessions of the peace, *Dalt. J. P. c.* 73. *f.* ibid. *Res. Judges* 1633. *Quest.* 7.

An Apprentice put to a Man in respect of his Farm, when his Lease expireth, the Apprentice shall go still with the Farm, if the first Master be so pleased; otherwise it is where an Apprentice is put to a man in regard of his Ability, or for other Respects. And where any differences are between the Officers and the Man that is to receive an Apprentice, about Mony, and what Mony shall be given or otherwise, here the Justices thereabouts, or in their Defaults, the Sessions must end it, *Res. Judges* 1633. *Quest.* 2. *Dalt. J. P. c.* 73. *f.* 151.

If the Parents of Poor Children shall refuse to let their Children be put forth Apprentices (without good cause shewed) such Parents may be bound over, by the Justices, to answer their said Default, and if the Children shall refuse the Justices may send them to the House of Correction there to remain till they be content to be bound and serve, *Dalt. J. P. c.* 73. & 58. *f.* 153. & 1[illegible]

Note, That this binding must be by Indenture, and may not well be done by a verbal Agreement; and the Indenture must be either between the Justices, Churchwardens and Overseers, or them and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the Form of the Indenture in the end of this Chapter; and he must be named by the Name of Apprentice express or else he is no Apprentice, though he be bound

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*Cromp.* 184. *Dalt. J. P. c.* 5. *f.* 120.

And this binding is as effectual to all purposes, as if the Children were of full Age, and did bind themselves by Indentures and Covenants; and all such as are bound by the Overseers, as above-said, may safely be received and kept as Apprentices by their Masters, 1 *Jac. c.* 25. 21 *Jac. c.* 28. *Dalt. J. P. c.* 58. *fol.* 120. 3, *Car.* 1. *c.* 4. 5 *El. c.* 4. *Cromp.* 184. *b.*

Such Mony as is given to put out poor Children Apprentices, is to be imployed in Corporate Towns, by the Corporations, and in other places by the Parson or Vicar, together with the Constables, Churchwardens, and Overseers of the Poor, or the most part of them; who shall not forbear to refuse to employ the same accordingly, on pain to forfeit five marks, each of them so making default, to be divided betwixt the Poor of the Parish and the Prosecutor, 7 *Jac. c.* 3. *Tingates Stat. Tit. Poor People.*

The Party taking any Mony with such Apprentice, shall give good Security by Obligation to repay it at the end of seven years next ensuing the date of the said Obligation, or within the three months after the end of the said seven years; and if such Apprentice shall die within seven years, then within one year after his or her death; and if the Master, Mistress or Dame happen to die within the seven years, then within one year after their death; so as the Mony may be employed in placing the Apprentice with some other of the same Trade, to serve out his time, at the discretion of the Parties trusted as aforesaid, 7 *Jac. c.* 3.

And the Mony so given shall be imployed within three months after the Receipt thereof, and if there shall not be apt Persons found in the places where it is given to the Apprentices, it shall then be

be imployed in the Parishes next adjoyning, by the Parties that are trusted with it, in the place where it was so given and there also Bond shall be taken, as afore is declared, 7 *Jac. c.* 3.

If the Master shall put his Apprentice into Apparel, it is a Gift in Law, and he cannot afterwards take it away, though he should part with his Apprentice, *Br. Transgr.* 93.

An Apprentice cannot be discharged from his Apprenticeship but by four Justices of the Peace at the least, and in open Sessions, or else by the Agreement of the Master and Apprentice, and under his Masters Hand in Writing, *Dalt. J. P. c.* 58. *f.* 121.

The Form of these Indentures, mentioned before, is as followeth, *viz.*

THIS *Indenture made the* 29*th* day *of* September, *in the* 20th *Year the Reign of Our most Gracious Sovereign Lord* Charles *the Second by the Grace of God of* England, Scotland, France and Ireland, *King, Defender of the Faith*, &c. Anno Dom. 1668 *witnesseth, that* J. W. *and* G. R. *Overseers of the Poor in the Town of* Kirk-Leaventon *and* J. R. *Churchwardens of the same Town, by and with the consent of Sir* J. P. *Knight and Baronet, and* T. M. *Esq; two of his Majesties Justices of Peace for the North-Riding of the County of* York, *have by these Presents placed and bound* J. T. (*being a poor fatherless Child*) *as an Apprentice with* E. H. *of* Kirk-Leventon *aforesaid, Widow; and as an Apprentice with her the said* E. H. *to dwell from the day of the date of these Presents, until she the said* J. T. *shall come to the Age of* 21 *years, or be married, which shall first happen, according to the Statute in that case made and provided, by and during all which time the*

*term the said* J. T. *shall the said* E. H. *her Dame well and faithfully serve in all such lawful Business as the said* E. H. *shall put her the said* J. T. *unto, according to her Power, Wit and Ability, and honestly and obediently in all things shall behave her self toward her said Dame and Children, and all the rest of the Family of the said* E. H. *And the said* E. H. *for her part promiseth, covenanteth, and agreeth that she the said* E. H *the aforesaid* J. T. *in the Art and Skill of Housewifry the best manner that she can, or may, shall teach and inform, or cause to be taught and informed, as much as thereunto belongeth, and she the said* E. H. *knoweth; and also during all the said Term, to find unto her said Apprentice, Meat, Drink, Linnen, Woollen, Hose, Shooes, Washing, and all other things needful or meet for an Apprentice. In Witness whereof.* &c.

*Note,* If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade, then he may be bound till 24 years of Age, as is shew'd before in this Chapter.

## CHAP. IV.

### *Several Cases about Settlements, and also touching Bastards,* &c.

TOuching setling of Poor People, the Justices are to meddle with none but those who are impotent, and such as are like to be chargeable to the Place where they are, *Boulst. Rep. 1 part,* 347.

By 13 & 14 *Car.* 2. *cap* 12. It is Enacted, That upon complaint by the Churchwardens, and Overseers of the Poor, to any Justice of Peace

Peace within forty days after any poor Person cometh to settle in a Tenement under 10 *l. per annum*, two Justices of Peace, whereof one to be of the *Quorum*, may by Warrant remove such Person to the Parish where they were last legally settled for forty days, unless they give Security to be allowed by the said Justices for discharge of the Parish: Persons aggrieved may appeal to the Quarter-Sessions.

But Persons having a Certificate from the Minister of the Parish, and one Churchwarden, and one Overseer of the Poor, declaring them Inhabitants there, may go into any Parish to work, and the not returning of such Persons, when their Work is finished, or falling Sick whilst they are at work, shall not be accounted a Settlement: If any return to the Parish from whence they are removed, a Justice of Peace may send them to the House of Correction, to be punished as Vagabonds, or to a publick Work-house to be imployed in Labour; and if the Churchwardens and Overseers of any Parish to which any are removed, refuse to receive them, and provide them work, *&c.* a Justice of Peace may bind over such Officers to the Assizes or Sessions.

Churchwardens and Overseers for the Poor where any Bastard-Child shall be born, may seize so much of the Goods and Profits of the Lands of the Putative Father and Lewd Mother, as two Justices of Peace shall order towards discharge of the Parish, to be confirmed at the Sessions: who may make an Order for the Churchwardens, *&c.* to dispose of the Goods by Sale or otherwise, as they shall think fit, and receive the Profits of so much of their Lands, as shall be ordered by the Sessions.

The

The Poor in every Town-ship or Village in *Lancashire*, *Cheshire*, *Darbshire*, *Yorkshire*, *Northumland*, *Bishoprick of Durham*, *Cumberland* and *Westmoreland* shall be provided for in the Township and Village where they inhabit, or were last legally settled: And two or more Overseers shall be chosen in every Township, *&c.* who shall execute all Powers for the Relief of the Poor under the Penalties mentioned in 43 *Eliz. c.* 2.

This Act of 13 *&* 14 *Car.* 2. *c.* 12. was to continue no longer than to the end of the first Session of the next Parliament, but revived by 1 *Jac.* 2 *c.* 17. to continue for seven years, and to the end of the first Session of the next Parliament.

And whereas poor Persons at their first coming to a Parish, do commonly conceal themselves, the forty days intended by the said Act, to make Settlement, shall be accounted from the time of their deliveries of notice in writing of their House of Abode, and the number of their Family, if they have any, to one of the Churchwardens or Overseers of the Poor of the said Parish, 1 *Jac. c.* 17.

No Man but a Vagrant Begger, ought to be sent out of any Parish to the place of his Birth, or last Habitation; for if any refuse to work in the Parish where he is settled, or to work for the Wages assessed, then he is by the Justices to be sent to the House of Correction, *Co.* 2 *Inst. f.* 730. 7 *Jac. c.* 4. *Resol. Judges* 9. *Dalt. J. P. c.* 73. *f.* 157. 39 *El. c.* 4. 1 *Jac. c.* 7.

If a Scholar in the University, or in a Grammar School begin to be suspect, he may be, or if he doth become impotent, and is like to be a Charge to the Parish where he is, he must be sent to his Parents if he have any, otherwise to the place where

where he was last legally settled before he came to School, *Resol. Judges* 1633. *sect.* 32.

If one be born and live 20 years in *A.* and then go to *B.* and there live in a House and pay his Rent, and after he come to *C.* and there works 20 Weeks as a Labourer in a Quarry of Stones, where he breaks his Back, and becomes impotent, and there is taken vagrant and begging, in this case he must be sent to *A.* the place of his Birth, and there must be provided for, *Resol. Judges*, 14 *Car.* 1.

If a Man that hath a Wife and Children take an House in one Parish for a year, and during this time he is illegally forced out of his Possession; then he takes an House as Inmate in another Parish, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his Wife is delivered of another Child; in this case they are all to be sent to the Parish out of which they were first illegally forced, *Resol. Judges* 1633. *sect.* 24.

One born in *D.* left that place for the space of 20 years, then lived in *S.* took an House and paid Rent, and left that place also six or seven years, and then came to *L.* in another County, and there was 20 Weeks, did work, and there became impotent, and did wander and beg in the same place, and was taken as a Vagrant, and it was ordered he should be passed, and setled at *D.* where he was born, by the Judges at *Worcester* Assizes, 14 *Car.* 1. 1 *Bulst. Rep. f.* 375.

No Child under the Age of seven years shall be adjudged a Rogue within the Statute of 39 *El. c.* 4. But it seems such Children vagrant and begging must be sent and placed with the Father or Husband of the Wife; and if he be dead, then with

with the Mother (where she was born, or last dwelt by the space of one year) and such Children, once thus settled or placed, must there remain, and not be sent from thence to their place of Birth, though after their Parents die, or run away, or that the said Children grow above the Age of seven years, yea, though the said Children after beg, and prove vagrant in the Town, for there they must be set to labour by the Overseers of the Poor, *Dalt. J. P. c.* 83. *f.* 209.

But Children above seven years of Age, going about vagrant, or begging in the Country, shall be punished as Rogues, and sent to their place of Birth, *Dalt. J. P. c.* 83. *f.* 209.

The Wife being a vagrant Rogue, must be sent to her Husband, though he be but a Servant in another Town; and where the Husband and Wife have an House, (though as an Inmate) and either of them Rogue about, in this case they are to be sent to the place where the House is, *Dalt. J. P. c.* 83. *f.* 209.

The Rogue, whose place of Birth or last dwelling cannot be known, having Wife and Children under seven years of Age, they must go with the Husband to the place where they were last wilfully suffered to pass through without Punishment, where the Children must be relieved by the work of their Parents, though the Parents be committed to the House of Correction; and if the Rogue have Children above seven years of Age, that Rogue about with him, then they are to be sent to the House of Correction also with the Parents, and when they come out again, then to their several places of Births, *Dalt. J. P. c.* 83. *f.* 206. and *Shephard's Guide* for *J. P. pag.* 152. *Ref.* &c. *b.*

If

If I live in a House in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this case my Children shall be in *A.* but if I have an House in *B.* they shall be placed there, *Dalt J. P. c.* 73. *f.* 158.

*A.* being a Wanderer with three Children born in three Parishes, comes to *Dale* with them to her Sister, and there dieth shortly after, here the Children must be settled in the several Parishes where they were born, and not in the Parish where the Mother died, *Bulst. Rep.* 2. *part*, 351.

No Man is to be put out of the Town where he dwelleth, and is lawfully settled, nor to be sent to his place of Birth, or last Habitation, but a Vagrant Rogue, not to be found by the Town, execept the Party be impotent, but they ought to set themselves to labour, if they be able and can get Work; and if they cannot get Work, then the Overseers are to set them to work; and if in such case such Persons wander abroad begging out of the Parish, then they may be sent as Vagabonds (from the place where they shall be taken wandring or begging) to the place of their Birth, *Dalt J. P. c.* 83 *f.* 209.

If a Maid Servant be gotten with Child at *A.* by her Fellow-Servant (or by another Man of the same Town) and after both their Services ended, they Marry, and then the young Man is retained at *B.* and afterwards the Woman is delivered of her Child, in this case she with her Child are to be sent to the Father at *B.* and there must be settled, *Dalt. J. P. c.* 73. *f.* 159.

If any disturbance be made to any Settlement lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue where they ought to do it, or by the Church-

Churchwardens and Overseers of the Poor in refusing such an one as is duly sent to be settled there, in such case they forfeit 5 *l.* by the 39 *El.* c. 4.

If a Woman unmarried be hired Weekly, Monthly, half Year, or Yearly, in one Parish, and there be gotten with Child, and then goeth into another Parish, and there is settled in Service, or otherwise for two or three Months, and then she is discovered to be with Child, in this case she and her Child shall be settled in the Parish where she then is, and must not be sent to the Parish whence she came, *Resol. Judges* 1633. *sect.* 12.

If a Woman be delivered of a Bastard Child in one Parish, and then go into another Parish with her Child, in this case the Child after it is nursed, is to be sent to, and settled in the place where it was born, and not to remain with the Mother, *Resol. Judges* 1633. *sect.* 23.

If *A.* have a Bastard Child by *B.* born in *Dale* and the reputed Father marries another Woman, and they breed the Child 10 years in the Parish of *Sale*, and the Mother of the Child is in Service all this while, and a single Woman, the reputed Father dies; in this case the Child is to be sent to the Mother first, to be maintained by her, if she be able, and if not, it must be kept by the Parish of *Sale*, where it was settled with the Father 10 years, *Bulst. Rep.* 2 *part*, *fol* 350.

If a Woman have a Bastard Child, and is like to be chargable to the Parish, and she is sent to the House of Correction for it (as she may be by Law) in this case it hath been questioned whether the Child must go with her, or remain in the Town where it was born, (or setled with the Mother) and there to be relieved by the Work of the Mother, or by Relief from the Reputed Father

ther, upon 18 *El.* and it seems most reasonable to be so; and yet the common Opinion and Practice is otherwise, (to wit) to send the Child with the Mother to the House of Correction: And this may also seem reasonable where the Child sucketh on the Mother, *Dalt. J. P. c.* 11. *f.* 41.

If a Woman with Child be sent to the House of Correction, and there be delivered, the Child must be sent back to the Parish where the Woman came from, there to be relieved. Also if a Woman be travelling, and have her Child with her, and is apprehended and sent to the Gaol and there hanged for Felony, in this case the Child shall not be chargeable to the place where Gaol is, but to the place where it was born (if it can be known) otherwise to the place where the Mother was apprehended; and so was the Opinion of Sir *Nicholas Hide*, 3 *Car.* 1.

The two next Justices (*Quor. unus*) in or near to the Limits where the Parish Church is, may take Order as well for the punishment of the Mother, and reputed Father of a Bastard Child, as also for the Relief of the Parish where it is born, by charging the Mother and Father with the payment of Mony weekly toward the keeping of it, or otherwise: And if the Mother or Father perform not the Justices Order therein they are to suffer Imprisonment without Bail except he or she give Security to perform, or else to appear at the next Sessions, and abide the Order of the Justices there if any be made there; and if none be made, then to stand to the first Order, *Dalt. J. P. c.* 11. *f.* 40. 18 *Eliz. cap.* 3.

Note, That this Order may be made by any two Justices of the County (*Quor. unus*) as it is bel

eld by some, but most properly by the two next ustices, and the question must be about such a Bastard Child as is likely to be a Charge to the Parish; and the Security must be given to the Parish where the Child is born, to secure the Parish from the Charge of the Child, or to keep the Child: it must be a Parish within the County where the two Justices have power, and the Order must be certain how long the reputed Father must keep the Child, secure the Parish, *&c.* and it must be made against the Person that is suspected to have gotten the Bastard Child, and not against another Person to contribute towards it, because it was gotten in his House, *&c.* and the order must express the Child by the Name of a Bastard Child, and not the reputed Child of such an one; and the Justices for the better discovery of the Matter, may upon Oath examine the Mother her self concerning the reputed Father, the time, *&c. Dalt. J. P. c.* 11. *f.* 40. 18 *Eliz. c.* 3. 3 *Jac. c.* 4. See *Steel's Rep. f.* 154, 245, 246, 247, 388. and see *Pridgeon's* Case, *Hill.* 9 *Car.* 1. *B. R.* and *Slater's* Case, *Pasch.* 13 *Car.* 1. *B. R.* 1 *Cro. Rep.*

## CHAP. V.

### *The Overseers Office in making of Rates, and passing Accounts.*

THE Churchwardens and Overseers of the Poor, or the greater part of them (for the doing and performing of the things they have in charge) may raise weekly, or otherwise by Taxation of every Parson, Vicar, and other Occupier of Land, House or Tythes, Colemines, or saleable Underwoods, within the Parish, Town, *&c.* such a Sum as they shall think fit; and this Rate they must have allowed and confirmed

firmed under the Hands of two Justices (*Quor. unus*) and then by Warrant from them, or any other two Justices (*Quor. unus*) they may levy by Distress and Sale of the Goods of the Party refusing to pay the said Tax, rendring the Overplus to the Owners, and in default of Distress two such Justices may commit the Party to Prison, there to remain without Bail till he be discharged by him, 43 *El. c.* 2. *Dalt. J. P. c.* 73. *f.* 148. *Wingates Stat. Tit. Poor People.*

Now these Rates ought to be well and truly made, according to Mens visible Estates, real and personal, within the place only, and not for any Estate elsewhere; at *Lincoln* Assizes, 9 *Car.* 1. by Justice *Hutton* and *Crook.*

Note, That a Parish in Reputation, shall be a Parish within this Law: so that if *A.* be an ancient Parish that hath Officers in it, and there be a Town within this Parish, which for a long time hath been used, and reputed as a Parish, and hath all Parochial Rights, as Churchwardens *&c.* here this place may be rated as a Parish towards the Poor, *Huttons Rep. fol*, 93. *&* *M.* 3 *Car. B. R. Hilton & Paul's* Case, 3 *Cro. Rep.*

This Tax must be set upon the Tenants and Occupiers of Lands; and not upon the Land Lord's Living within or without the Parish; for the Tenant only is chargeable for the Land, 1 *Bastrod's Rep. fol.* 354.

The Parson having a full Tenth Part of the Profits of the Place, may be rated to a Tenth Part, *Resol. Judges* 1633. *sect.* 33.

He that doth occupy Lands in his own Hands lying in several Parishes, he must be charged in every Parish for his Land lying therein, only according to the proportion thereof, and no more; but for his personal Estate it seems reasonable

sonable he should be charged for it in the place where his Person is: All Lands Ancient Demesn, Guildable and Copyhold, are to be charged with these Rates, which ought to be according to the Value, or by the Pound, and not according to the Quantity, *Sed Consuetudo tollit Legem.*

The Rate for Stock or Goods is thought reasonable to be set after the proportion of Lands, (viz.) an 100 *l.* in Stock to be rated after 5 or 6 *l.* a year in Land.

Note, That in some special Cases a Man may be rated beyond his Ability; as where one brings a Charge upon a Parish; or under any pretence brings in a Man that may be chargeable in a Parish, he may, if there be cause for this, be raised in his Rate to the full value of his Estate; and so was the Opinion of Sir *Nicholas Hide, Dalt. J. P. c.* 73, *f.* 167.

Where the Inhabitants of any Parish are not able to relieve their Poor, any two Justices (*Quor. unus*) may tax other Parishes and Places within the Hundred, yea, the whole Hundred, as need require; and where that is not sufficient, the Justices in their Sessions may tax the County in part, or wholly at their discretion, 43 *El. c.* 2. *Dingates Abridg. Stat. Tit. Poor People,* 14 *Car.* 2. *p.* 12.

If any Persons find themselves aggrieved in any Tax, or other Act done by the Overseers, or by the Justices of Peace, they are to be relieved at the Quarter Sessions, *Dalt. J. P. c.* 73. *f.* 160. *Dingates Abr. Stat. Tit. Poor People.*

The Father, Grandfather, Mother, Grandmother and Children of every poor Person, shall be assessed towards their Relief, as the Justices of the Peace in their Sessions of the Peace in the County

County where such Father, *&c.* dwells, shall limit and appoint, on pain to forfeit 20*s.* a Month, to the use of the Poor, to be levied by Distress and Sale as aforesaid, and for want of Distress to be committed to Prison till the Forfeiture be paid, 43 *El. c.* 2. *Wingates Abr. Stat. Tit. Poor People, Dalt. J. P. c.* 73. *f.* 156.

Head Officers in Cities and Corporate Towns and Aldermen of *London*, have in their several Precincts like Authority that Justices of Peace have in their Counties, and no other Justices of Peace are to enter and intermeddle there, *Wingates Abr. Stat. Tit. Poor People*, 43 *El. c.* 2.

If any Parish shall extend into two Counties or part thereof to lie in any City or Corporate Town where they have Justices: Then the Justices of every County, *&c.* are to intermeddle only within their own Limits; and every of them respectively within their Limits are to execute this Law concerning the nomination of Overseers, binding of Apprentices, granting Warrants to levy Taxations, taking Accounts of Overseers, and committing such as refuse to account, or to pay their Arrearages; and yet the Overseers shall without dividing themselves, execute their Office in all places within the said Parish, but shall give up Accounts to the Justices or Head Officers of both Places, *Wingates Abr Stat. Tit. Poor People*, 43 *El. c.* 2. *Dalt. J.P. c.* 73. *f.* 15[illegible]

These Officers within four days after the end of their Year (and that other Officers are nominated) are to yield up a true Account to the Justices (*Quor. unus*) of these things following: 1. What Sums of Mony they have received, rated and not received? 2. What stock of Wool or Stuff is in their Hands, or in the Hands of any of the Poor? 3. What Apprentices the

ave put out, and bound according to the Sta-
ute? 4. What Poor they have set to work or
elieved? 5. What Poor they have suffered to
wander and beg out of their Town, or in the
highways, or in their Town without their di-
ections? 6. Whether they meet monthly to
onsider of the things belonging to their Office?
. Whether they made their Rates indifferent
pon all Men, according to their Ability? 8.
Whether they have endeavoured to gather and
vy such Assessments? 9. Whether they have
eglected the Justices Warrants to them, or any
f them directed for the levying of any Forfei-
ure according to 43 *El. c.* 2. *Dalt. J. P. c.* 73. *f.* 153.

By the Statute of 30 *Car.* 2. for Burying in
Woollen, the Justices are not to allow the Ac-
ounts of the Overseers of the Poor, until they
ave given them an Account of the Burials and
ertificates, and of their levying the Penalties in
ursuance of that Act, 30 *Car.* 2. *c.* 3.

Now if the Churchwardens, o. Overseers, or
y of them, shall refuse to make and yield a
ue and perfect Account to the said Justices, of
l such Mony, and of all such Stock as afore-
id, any two Justices (*Quor. unus*) may com-
it them to the common Goal, there to remain
ithout Bail, till they have made a true Ac-
unt, and satisfied, and paid to the new Over-
ers so much of the said Sum or Stock, as upon
e said Account shall be remaining in his or their
ands, *&c.* And if they make a false Account,
ey may be bound over to the Assizes or Ses-
ns, and there an Indictment may be preferred
ainst them, *Dalt. J. P. c.* 73. *f.* 154.

Also if any of the Churchwardens or Over-
ers shall refuse, or deny to pay, or deliver over
the new Overseers the Arrearages (Sums of

Mony or Stock) which shall be in their Hands and due, and behind upon their Account to be made as aforesaid, any two such Justices of Peace may make their Warrant to the present and subsequent Churchwardens and Overseers, or any of them, to levy the same by distress and sale of the Offenders Goods, rendring to the Parties the overplus, and in default of such distress, any two Justices of the Peace may commit him or them to the common Goal, there to remain without Bail, until Payment or delivery of the said Sum, Arrearages and Stock be made, 42 *El. c.* 2. *Dalt. J. P. c.* 73. *f.* 154.

If any such Stock shall be in the Hands of any of the Poor to work, and such Poor shall refuse to deliver the same, two such Justices may make the like Warrant, to levy the same by distress, and for lack thereof, may commit such Offenders to the Goal, as aforesaid, *Dalt. J. P. c.* 73. *ibid.*

And for these aforesaid, and all other Negligencies of the Churchwardens and Overseers, in the Execution of their Office, about the Poor *&c.* every of them, for every Default he makes forfeits 20 *s.* which Default must be proved either by the Offenders own Confession, or by Examination of Witnesses, and it is to be levied by the new Churchwardens and Overseers, or one of them, by Warrant from two Justices, as aforesaid, by distress and sale of the Offenders Goods; and for want of Distress, two such Good Justices may commit Offenders to the Goal there to remain without Bail, till the said Forfeitures shall be paid; which said Forfeitures are to be imployed to the use of the Poor of the said Parish, *Dalt. J. P. c.* 73. *f.* 155. 43 *El. c.* 2.

CHAP

## CHAP. VI.

*The Overseers Duty about Weights and Measures, and Burying in Woollen.*

THere shall be one Weight, one Measure, and one Yard, according to the Standard of the *Exchequer*, throughout all the Realm, as well in places Priviledged, as without, and every Measure of Corn shall be striked without heap: And whosoever shall keep any other Weight, Measure, or Yard, whereby any Corn Grain, or other thing is bought or sold, shall forfeit for every Offence five shillings, being thereof convicted, by the Oath of one sufficient Witness, before any Justice of Peace, or Head-Officer of the City, Town, or Place where the Offence is done, to be levied by the Churchwardens or Overseers of the Poor of the Parish, to the use of the Poor of the said Parish, by distress and Sale of the Offenders Goods, and for want of Distress, to be imprisoned without Bail until payment. And all Persons, upon Suit against him or them, for any thing done upon this Act, may plead the General Issue, and give the Act in evidence, and to have treble costs, if unjustly vexed, *Dalt. J. P. c.* 112. *f.*246. 17 *Car.* 2. *c.* 19.

No Corps shall be buried in any thing other than what is made of Sheeps Wool only, or be put into any Coffin lined or faced with any thing made of any material but Sheeps Wool, on pain of the Forfeiture of five pounds, 30 *Car.* 2. *c.* 3.

An Affidavit under the Hands and Seals of two Witnesses (or under the Hand of the Magistrate or Officer before whom it was sworn, for which nothing shall be paid) must be brought to

the Minister within eight days after the Party
interred, that he was not buried contrary to th
Act, which shall be taken before some Justice
Peace, Master of Chancery, Ordinary or Extr
ordinary, Mayor, Bailiff, or other chief Offic
of the City, County, Borough, *&c.* where t
Party was buried: And if no such Affidavit
brought, the Minister shall give notice there
under his Hand to the Chuchwardens or Ove
seers of the Poor, who within eight days aft
shall repair to the Chief Magistrate in any Tow
*&c.* if buried there, else to a Justice of Pea
who upon Certificate thereof from the Minist
*&c.* shall grant a Warrant for levying the Fo
f iture by Distress and Sale of the Goods of t
Party deceased, or in default thereof, of the Pe
sons Goods in whose House the Party died,
the Goods of any that had a Hand in putti
such Party into any Shroud, Coffin, *&c.* cont
ry to this Act, or that ordered the same: A
if such Person were a Servant, and died in t
Masters Family, the Masters Goods to be liab
And if such Person died in his Parents Fami
the Parents Goods to be liable: One Moiety
which Forfeiture shall be to the Poor of t
Parish where the Party is buried, the other
him that shall sue for the same, 30 *Car.* 2. *c.* 3

Ministers, Church-wardens, and Oversee
Justices of Peace, or Chief Magistrates, ne
lecting their Duty aforeaid, shall forfeit fi
pounds for every Offence, to be recovered
Action of Debt, Bill, Plaint, *&c.* wherein t
Prosecutor shall recover his full Costs, so as t
Suit be commenced within six months after t
Offence committed; one fourth part of the Fo
feitures to the King; two fourth parts to t
Poor of the Parish where the Offender dwell

nd one fourth part to the Informer, 30 *Car.* 2. *c.* 3.

Every Minister shall keep a Register of all Burials and Affidavits: And where no Affidvit is brought as aforesaid, shall enter a Memorial thereof against the Name of the Party interred, and of the time when he notified the same to the Churchwardens or Overseers of the Poor and the Overseers when they give up their Accounts at the Sessions, or to any two Justices at their monthly Meetings, shall give an account of the Name and Quality of every Parson interred since their former Account; and of such Certificates, and of their levying the Penalties, and of their disposal thereof, on pain of five pounds, to be levied by distress and sale of Goods, by Warrant from the said Justices, or two of them: and their Accounts shall not be allowed till they have accounted for their Burials, 30 *Car.* 2. *c.* 3.

No Penalty shall be incurred where the Party died of the Plague: If any Person be prosecuted, for what he shall do in pursuance to this Act, he may plead the General Issue, and give this Act in Evidence: And upon a *Nonsuit*, Discontinuance or Verdict for him, or Judgment upon a Demurrer, he shall have treble Costs, 30 *Car.* 2. *c.* 3.

And now by the Statute of 32 *Car.* 2. (where no Justice of Peace shall reside, or be to be found in any Parish where any Party shall be interred) such Oaths or Affidavits may be adminstred, not only by such Magistrates as aforesaid, but by any Parson, Vicar, or Curate in the same County, other than of the Parish or Chapel of Ease where the Party is interred; and they are to attest the same under their Hands gra-

6, 32 *Car.* 2. *c.* 1.

The Overseers Duty about *Irish* Cattle, See *Duty of Constables, ch.* 8.

Their Duty in suppressing Conventicles, See *Duty of Constables, ch.* 9.

*Note*, That the Overseers of the Poor, are to receive for the use of the Poor of the Parish where the Offence is committed, of such who kill, or take in the night-time any Conies upon the Borders of Warrens, or other Grounds lawfully used for keeping of Conies, except Owners, *&c.* or Persons by them imployed, and of such who use Snares, Harepipes, or other like Engines, or who take any Fish by any Net, Angle, or other Device whatsoever, in any Water or River, or shall be assisting thereunto, without consent of the Lord, or Owner of the said Water, what Sum the Justice of Peace before whom such Offender shall be convicted, shall think meet, not exceeding ten shillings (which he is to pay over and and above recompence to the Owner:) And in default of payment thereof, he that takes or kills such Conies, or useth Snares, *&c.* shall be committed to the House of Correction for any time not exceeding one month. And the Goods of him that takes such Fish shall be liable to distress; and for want of a Distress he shall be committed to the House of Correction, for any time not exceeding one month, unless he enter into Bond with one or more Sureties to the Party injured, not exceeding ten pounds, never to offend in like manner, 22 and 23 *Car.* 2. *c.* 24.

3 & 4 *W.* & *M. cap.* 11. The Act made in the 13th and 14 years of the late King *Charles* II. Entituled, *An Act for the better Relief of the Poor of this Kingdom* (except what relates to the Corporations therein mentioned) which was revived

and

and continued with Alterations, by an Act made in the first year of the late King *James* II. shall be in force from the first day of *March*, 1691.

The forty days continuance of a person intended by the said Acts to make a Settlement, shall be accounted from a publication of a notice in Writing, which he or she shall deliver, of the House of his or her Abode, and number of his or her Family, to the Church-warden or Overseers of the Poor, which shall be read immediately after Divine Service, in the Church or Chapel of the place, on the next Lords Day, when there shall be Divine Service in the same, the Church-warden or Overseer to Register such Notice in the Book kept for Poors Accounts.

No Souldiers or other person in their Majesties Service shall have Settlement by delivery and publication of notice, as aforesaid, unless they be dismist the Service.

Church-wardens or Overseers refusing to read, or cause to he read such notice, as aforesaid (upon proof thereof by two Witnesses upon Oath made before a Justice of Peace) shall forfeit 40*s.* to the use of the Party grieved, to be levied by Distress and sale of Goods, by Warrant of a Justice of Peace to the Constable; and for want of a Distress, shall be a committed to Goal for a Month; and if any Church-warden or Overseer shall neglect or refuse to Register such notice, as aforesaid; they shall forfeit 40*s.* to be levied, as aforesaid; and for want of a Distress, shall be committed as aforesaid.

If any person coming to inhabit any Town or Parish, shall on his own account execute any publick annual Office, or Charge in the same, during a year, or pay his share towards the publick Taxes or Levies of such Town, *&c.* he shall

The Overseers Duty about *Irish* Cattle, See *Duty of Constables, ch.* 8.

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If any person coming to inhabit any Town or Parish, shall on his own account execute any publick annual Office, or Charge in the same, during a year, or pay his share towards the publick Taxes or Levies of such Town, *&c.* he shall

be adjudged to have a legal Settlement, without notice in writing delivered, *&c.*

If any unmarried person, not having Child or Children, shall be lawfully hired for a Year, such Service shall be deemed a good Settlement without notice, *&c.*

Being bound Appprentice, and inhabiting in a Town or Parish, shall be adjudged a good Settlement.

Persons aggrieved by the determination of any Justices of the Peace, may appeal to the next Quarter-Sessions, who shall finally determine to same.

If any person be removed by virtue of this Act from one place to another, by Warrant of two Justices of Peace, the Church-wardens or Overseers of the place to which he shall be removed, shall receive him, and in case of refusal (upon proof by two Witnesses upon Oath, before a Justice of Peace of the County, Riding, *&c.* to which he shall be removed) shall forfeit 5 *l.* to the use of the Poor of the Parish from which he shall be removed, to be levied by distress and sale of Goods, *&c.* by Warrant of a Justice of Peace of the County, *&c.* to which he shall be removed, to the Constable of the Place where such Offender dwells; and for want of a Distress shall be committed to Goal for forty days.

Persons aggrieved by the Judgment of the said two Justices, may appeal to the next General Quarter-Sessions of the Place from which the said person was removed.

There shall be kept in every Parish at the Parish Charge, a Book or Books, wherein the Names of persons receiving Collections shall be registred with the time when they were first admitted to have relief, and the occasion of their necessity

and

and yearly in *Easter*-Week, or oftner, the Parishioners shall meet and have such Books produced before them, and the Persons receiving Collections shall be called, and the reasons of their taking Relief examined, and a new List be made and entred of such as they think fit to allow to receive Collection; and no other shall be allowed to receive Collection, but by Authority under the Hand of a Justice of Peace residing in the Parish, and if there be none, in the parts next adjoyning, or by Order of the Justices of Peace in their Quarter-Sessions, except in Cases of Pestilential Diseases, Plague or Small Pox, in respect of Families infected only.

8 & 9 *W.* 3. *cap.* 30. If any person who after the first day of *May*, 1697. shall come to any Parish or other place to inhabit, shall at the same time deliver to any of the Churchwardens or Overseers of the Poor of the Place where he comes, a Certificate under the Hands and Seals of the Churcwardens or Overseers of the Poor of any other Parish or place, attested by two or more Witnesses, thereby owning the Person mentioned in the Certificate to be an Inhabitant legally setled in that Parish or place, such Certificate having been allowed and subscribed by two Justices of Peace of the County, City or Borough from whence it comes, shall oblige the said Parish or place to receive and provide for the Person mentioned in the Certificate with his Family, as Inhabitants, whenever the party shall happen to become chargeable to the place to which such Certificate was given; and then, and not before, it shall be lawful for such Person, and his Children (though born in that Parish) not having otherwise acquired a legal Settlement, to

be removed to the Place from whence such Certificate was brought.

After *1st September*, 1697. every such Person as shall receive Relief of any Parish or place, and the Wife and Children cohabiting in the same House (except such Child as shall be permitted to live at home to attend some helpless Parent) shall, upon the Right Shoulder of their upper Garment in a visible manner wear a large Roman P, with with the first Letter of the Name of the Parish or place where the said Person inhabits, cut in Red or Blue Cloth, as the Churchwardens or Overseers shall appoint. The Poor Person neglecting or refusing to wear such Badge or Mark, may be punished by any Justice of Peace of the County, either by ordering his or her Relief on the Collection to be abridged or withdrawn, or by committing the Party to the House of Correction, not exceeding 21 days; and if any Churchwarden or Overseer of the Poor, after the said first day of *September* shall relieve any such Poor Person not wearing such Badge, he being convicted by one Witness before a Justice of Peace shall forfeit for every such Offence 20 *s.* to be levied by Distress and Sale of Goods, one Moiety to the use of the Informer, the other to the Poor of the Parish.

Justices of Peace at their Quarter-Sessions, upon any Appeal concerning the Settlement of any Poor Person, or upon Proof of notice given of an Appeal (though the Appeal was not afterwards prosecuted) shall award to the Party for whom such Appeal shall be determined, or to whom such notice had been given, such Costs and Charges as the said Justices shall think reasonable; and if the Person order'd to pay such Costs shall live out of the Jurisdiction, any Jus-

tice

stice of Peace where such Person shall inhabit, may and shall upon request, and a true Copy of the Order for payment produced and proved upon Oath, cause the Mony mentioned in that Order to be levied by Distress; and in case no Goods can be found, to commit the Person to Prison for Twenty days.

No unmarried person, not having Child or Children, lawfully hired into any Parish or Town for one year, shall be deemed to have a good Settlement in such Parish, unless he shall continue in the same Service during one whole year.

Where any poor Children shall be Appointed to be bound Apprentices, pursuant to the Act of 43 *Eliz.* (*cap.* 2.) the Persons to whom they are appointed to be Bound, shall receive and provide for them according to the Indenture; and upon refusal so to do, upon Oath thereof made by a Churchwarden or Overseer, before Two Justices, he or she, so Offending, shall Forfeit 10 *l.* to be Levied by Distress and Sale of Goods, to be Applied to the use of the Poor of the Parish where such Offence was Committed. Saving to such persons their Appeal to the next Quarter Sessions for that County, whole Order therein shall be final.

After the 1 of *May*, 1697. the Appeal against any Order for the Removal of any Poor person, shall be had at the Quarter Sessions of the County or Division, wherein the Parish or Place from whence such Person shall be removed, doth lie, and not elsewhere.

Nothing in this Act to extend to make void any promise already made, to receive and take back any persons, in case they should become poor or want Relief.

9 & 10 *W.* 3. *cap.* 11. For Explaining the Act made the last preceding Session, Intituled, *An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom*, whereby it was Enacted, That such persons as after 1 *May*, 1697. shall come into any Parish or Place to Inhabit or Reside, should at the same time deliver to the Church-wardens or Overseers of the Poor there a Certificate, as by the Act directed, It is Declared, That no persons, who shall come into any Parish by any such Certificate, shall be adjudged by any Act whatsoever, to have procured a legal Settlement in such Parish, unless such persons shall *bona fide* take a Lease of a Tenement of 10 *l. per Annum*, or shall legally be placed in and execute some Annual Office in such Parish.

# A GUIDE FOR SURVEYORS OF High-ways and Bridges.

## CHAP. I.

*How many Sorts of ways there are; of the Choice of these Officers, with some few General Cases concerning High-ways.*

THere are three kinds of ways; First, A Foot-way, called *Iter, quod est jus eundi, vel ambulandi hominis.* Secondly a Foot-way and an Horse-way, called *actus, ab agendo,* and this vulgarly is called a Pack or Drift-way and is both a Foot-way and Horse-way. Thirdly, A Cart-way, *&c.* called *Via* or *Aditus,* (and containeth the other two, and a Cart-way also) for this is *jus eundi, vehendi & vehiculum & jumentum ducendi*; and this is twofold, *viz. Via Regia,* The King

Kings High way for all Men, *& communis Strata*, belonging to a City or Town, or between Neighbours.

It is called the King's High-way, for that the King at all times hath therein Passage for Himself and his People, and may punish all Nusances therein, though otherwise the Interest be in the Lord to bring his Action for digging therein, or other like Trespass there done, *Dalt. J. P. c.* 50. *f.* 101. and see *Rolls* Cases, 1 *part f.* 392. 2 *E.* 4. 9. 8 *E.* 4. 9. 17 *E.* 3. *f.* 43. *Bro. Chemine*, 10, 11 *&* *Leet* 3. 27 *H.* 6. *f.* 9. 8. *H.* 7. *f.* 5.

The High-way is not only the Common Tract, where Carts, Carriages, and People have gone; but if the Way be Foundrous, that People cannot pass in the Common Tract, and there be Outlets out of it, into the Soil of another adjoyning, the People may in such extremity use those Out-lets upon anothers Soil, although it be sowen with Corn: And that is, in such case, the King's High-way as well as the other; for the King's Subjects must have a convenient Passage, as was resolved in a Tryal at Bar against Sir *Henry Duncomb*, *Tr.* 10 *Car. Rolls* 1 *part of Abridgment*, *fol.* 390. Therefore where a Way goes through a Mans Land, and the Owner of the Land Fence it on both sides, he, by so doing, hath made himself liable to repair the High-way, and keep it passable; and it is not sufficient for him to keep it in as good repair, as it was at the time of the Inclosure; for by so doing he hath straitned the High-way, *Dalt. J. P. c.* 50. *f.* 98.

The Constables and Churchwardens of every Parish shall yearly, upon *Tuesday* or *Wednesday* in Easter Week, call together a number of the Parishioners, and then make choice of two of the

the Parish to be Surveyors of the High-ways the Year following, who shall forthwith take that Office upon them, on pain to forfeit twenty shillings apiece, 2 & 3 *Ph. & Mar. c.* 8.

The Constables and Churchwardens are then also to appoint six days betwixt that and the four and twentieth day of *June*, for the amendment of the High ways, and to give publick notice thereof in the Church the next Sunday after, 2 & 3 *P. & M. c.* 8. & 5 *El. c.* 13.

High ways must be sufficiently amended at the charge of the whole Town: And it is not enough for the Inhabitants to do their full six days work yearly, except their Ways be all well and sufficiently repaired thereby: For if all their said Ways be not sufficiently amended, the whole Town may be indicted therefore, and if six days work in the year will not serve to amend them, the Surveyors may, yea, must appoint more days, *Dalt. P. J. c.* 50. *f.* 101.

The Owner of Lands, if he be not the Occupier thereof ought not to be charged towards the repair of the Common High ways; but the Tenant who occupies the Lands is to be charged *Hill.* 11 *Car.* 1. *Br.* in one *Fosters* Case, *per Curiam*, *Rolls Cases*, 1 *part*, *f.* 390.

All Fines and Forfeitures assessed in the Sessions, upon the Statute 5 *El.* about High-ways, must be Estreated by the Clerk of the Peace, and must be levied, accounted, and imployed as is appointed by the 2 & 3 *Ph.* & *Mar c.* 8. 5 *El. c.* 13.

The Surveyors upon Warrant from two Justices of Peace, are to levy by distress and sale of Goods, the Forfeitures of all such Persons as offend against the 18 *El.* 10. in not Scowring their Ditches, *&c.* and if they neglect by the space of a year after the Offence committed, to levy

levy the Forfeiture; Then the Justices may send to the Constable and Churchwardens to levy the same, 18 *El. c.* 10.

By the Stat. 22 *Car.* 2 *c.* 12. All Constables and Surveyors of the High-ways shall put in execution the Statutes for repairing and inlarging High-ways, and levy the Penalties thereby imposed. And every Constable or Surveyor of the High-ways neglecting so to do, or wilfully suffering any Waggons or Carts to pass though his Limits, with any more Horses or Cattel, or in any other manner than this Act alloweth, upon Conviction thereof by one Oath before one Justice, or the Justices own view, shall pay such Fine (not exceeding 40 *s.*) as such Justice shall Assess.

All Actions brought against any Person for acting by this Law, shall be laid in the proper County, and Defendants may plead the General Issue, and recover treble Costs.

No travelling Waggon, Cart, *&c.* in which any Burdens shall be carried, (except Carts used about Husbandry, and carrying Hay, Straw, Corn unthrashed, Coal, Chalk, Timber for Shipping or Building, Stones of all sorts, Ammunition or Artillery for the King) shall be drawn, or go in any Road or publick High-way, with above five Horse-beasts at length, and if any draw with more Horses or Oxen, he shall draw all two abreast, except one Horse.

Every Owner of any Waggon, Cart, *&c.* Horse or Beast, shall forfeit for every Offence 40 *s.* one third part to the Surveyors to amend the Ways; one third part to the Overseers for the Poor; the last third part to him who shall discover the Offender.

The

The Surveyor, where any neglect to come and labour, shall complain thereof to the next Justices, who upon Oath of one Witness, shall levy for every days labour neglected 18 *d.* and for every Man and Horse 3 *s.* and for every Cart with two Men 10 *s.* for each day neglecting, 22C *ar.* 2. *c.* 12.

## CHAP. II.

*The Duty of the Surveyors about Setting and Calling the Parishioners to the common days Works for the High-ways, and about taking and digging for Gravel, Chalk, Sand,* &c.

THese Officers are to see that the Parishioners do their Work on the days appointed, and that acccording to these Rules following, *viz* Every Person having in his own Occupation a Plough Land in Tillage, or in Pasture in the same Parish, or keeping there a Plough or Draught, shall find and send one every day to the place appointed by the Surveyors, one Wain or Cart provided, after the Fashion of the Country, with Oxen, *&c.* fit for the Carriage, and with necessary Tools fit for the Work, and with two able Men, who are there to do such Work with their Wains, *&c.* as they shall be appointed (by the Surveyors) by the space of eight hours every of the said six days, on pain of 10 *s.* every day default is made, 2, 4 *P.M. c.* 8. *Rastall* 199. *Lamb.* 459. *Wingates Abr. Stat. Tit. High-ways, Dalt. J.P. c.* 50. *f.* 102.

And every other Housholder, Cottager, and Labourer of the Parish, Town, *&c.* (able to labour, and being no hired Servant by the year) must by himself, or some other able Man, be then

then and there ready to work every of the said six days, by the space of eight hours, as aforesaid, where they shall be appointed by the Surveyors, under pain to forfeit 12 *d.* for every day they make default, 2, 3 *P. M. c.* 8.

Note, That all Persons being chargable but as Cottagers, by the 2 & 3 *P. M.* yet if they be in Subsidy 5 *l.* in Goods, or 40 *s.* in Lands, or above, they must find two able Men to work every of the said six days, 18 *El. c.* 10. *Wingates Abr. Stat. Tit. High-ways.*

If any of the Carriages shall not be thought needful by the said Surveyors upon any of the said days, they may appoint instead of a Team, two able Men to work as aforesaid, who shall not fail on pain that the Party that should send them, shall forfeit 12 pence for every day that either of them make default, *Wingates Abr. Stat. Tit. High-ways*, 2, 3 *P.M.c.* 8. *Dalt. J.P. c.*50. *f.*100.

He that shall occupy a Plow-land in Tillage or Pasture, lying in several Parishes, shall be chargable only in the Parish where he dwelleth; and he that occupieth several Plow-lands in several Parishes, shall be charged in each Town or Parish where such Land lieth (to wit) to find in each Town or Parish one Cart furnished as aforesaid, though he be no Inhabitant there, 10. *El. c.* 18. *Dalt. J. P. c.* 50. *f.* 99.

Now for the further opening of these things, note, That it is said, that a Plow-land is not of any certain Contents, but ordinarily it is so much as one Plough may Plough in one day, which in some Counties is more, and in some less, according to the heavinesse of the Soil, 9 *Co. f.* 124. *Co.* on *Lit. f.*69. *& vide Lamb. ver. Hide* 35 *H.* 6. *f.*29.

And note, That a Plow-land, or Carve of Land may contain House, Meadow, Pasture and Wood:

And

And if one have so much of this as will keep a Plough, and yield Tillage for it, if part of it were ared, in this case it seems he is to send this Plough, *Vide Co.* 4. *Rep. f.* 37. *h. & 9 Rep. f.* 122.

He that hath a Plough-land, and no Plough, but doth suffer his Land to lie fresh, yet he is to find a Plough for this Work; and so it hath been agreed by the Judges, *Mich.* 21. *Jac. Dalt. J. P c.* 50. *f.* 105.

He that keepeth a Plough, or Draught for Carriage, although he occupieth little or no Land, but carrieth or Plougheth for other Men, yet it seems he is to send his Cart to the High-ways; and if a Man keep only two Horses and Cart for his own Business, in this case it seems he is to come with his Cart and two Horses, with a Man to manage them, *Vide Dalt. J. P. c.* 50. *ibid.*

It is held by some, that so many Ploughs or Draughts Men have, and use frequently about their own Business in Summer, so many they are to bring with them to the High-ways; so that if a Man have one Plough and five or six Horses, and shall Plough seven or eight score Acres of Land, and shall usually go in the Summer time with two Carts or Draughts: in this case it seems he is to come with two Carts or Draughts to this Service: And he that occupieth 40 or 50 Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart, *Dalt. J. P. c.* 50. *f.* 105.

These Officers may, if they see cause, for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken Stones already digged, of any Mans Quarry lying within the same Parish, without leave of the Owner, as they shall think needful, or gather the loose Stones lying dispersed in any

Man's

Man's Grounds; but they may not without Licence dig in any Man's Quarry for new Stones, nor take the great Stones already digged; and if there be no such Rubbish to be found in any Man's Quarry within the said Parish, then may they enter into any Man's several Ground within the Parish, lying near the place where the Ways are decayed, and there (if they see any hopes of finding Materials fit for the Reparation thereof) without leave of the Owner, they may dig for Sand, Stones, Gravel, *&c.* so that it be not in the Houses, Gardens, Orchards, or Meadows of any Man; for they are not to come there without Licence of the Owner; and in such place where they may dig without leave, they are not to make a Pit above ten yards in breadth or length, and they are to take care that the place be filled up again at the charge of the Parish within one month after, upon pain to forfeit five Marks to the Owner of the Ground, to be recovered by Action of Debt; and this by the 5 *El. c.* 13.

## CHAP. III.

*The Surveyors Duty about cutting down Bushes, Trees, and scouring of Ditches in the High-ways; and also touching Presentments and Inquiries about Defaults, passing of Accounts, Travelling of Wagons, Wains,* &c.

IF the Owners of the Grounds, next adjoyning to the High-ways, do not keep their Hedges low, and cut down their Trees and Bushes growing in the same ways, they forfeit ten shillings, *Wingates Abr. Stat. Tit. High-ways*, 5 *El. c.* 13. 18 *El. c.* 10.

And

And he that scours not his Ditches in the Ground next adjoyned to the Ground that is next the High-ways, to the end the Water may have the better passage out of the High ways, shall forfeit 12 pence for every Rod so left unscoured, 18 *E. c.* 10. *Wingate, ut supra.*

If any scour his Ditch by the Highways side, and throw the scouring thereof into the High-way, and suffer it to lie there six months, he forfeits for every Load thereof 12 pence; and the Surveyors are to make Sluces where such Banks have been heretofore made, for carrying away the Water out of the High-way, 18 *El.* c. 10.

Every Surveyor may cause any Water-course, or Spring of Water in the High-way, (within the Parish) to be turned into another Man's several Ditch or Ground next adjoyning to the said Way, in such manner as by the discretion of the said Surveyor shall be thought meet, *Dalt. J. P. c.* 50. *f.* 103.

*Note*, That the Forfeitures of the Act of the 18 *El. c.* 10. must be levied by the Surveyors for the time being, (by Warrant from the Justices before whom the Party shall be convict) by Distress and Sale of Goods; which Forfeitures are to be employed towards the amendment of the High-ways; and if the Surveyors neglect to do it within one year after the Offence committed, then the Constables and Churchwardens by like Warrant may do it, 18 *El. c.* 10. *Wingates Abr. Stat. Tit. High ways.*

The Surveyors, or one of them, are to present to the next Justice of Peace every Default upon the 2 & 3 *P.* & *M. c.*8. & 5 *El. c.* 14. within one month after it shall be made, on pain of 40 *s.* and the Justice is on pain of 5 *l.* to certifie the same at the next Quarter Sessions, where

where the Justices have power to inquire of the Default, and shall set such Fine upon the Delinquents, as they, or two of them (*Quor. unus*) shall think fit. 5 *El. c.* 13.

That the Presentment of a Justices of Peace in Sessions, upon his own Knowledge shall be a good Conviction, whereupon the Justices in Sessions, or any two of them (*Quor. unus*) may assess a Fine, as well as upon a Verdict of twelve Men; but in this case the Delinquent shall be admitted to his Traverse, as in other Cases, 5 *El. c.* 13. *vide Rastal.* 199.

The Defaults and Offences upon these Statutes 2 & 3 *P.* & *M.* 5 *El.* & 18 *El.* are inquirable by the Justices of Peace in their Sessions, or by Stewards in Leets, either of which have power to set Fines upon Offenders at their discretions; of which Fines, indented Estreats (in the Sessions under the Hand and Seal of the Clerk of the Peace, in the Leet, under the Hand and Seal of the Steward) shall be delivered within six weeks after *Michaelmas*, one part of the Estreat to the Bailiff or High-Constable of the Liberty, and the other part to the Constables and Churchwardens of the Parish where the Offenders live, 2 & 3 *P.* & *M. c.* 8. 5. *El c.* 13. 18. *El. c.* 10. *Wingates Abr. Stat. Tit. High-ways.*

And these Estreats shall be a sufficient Warrant for the Bailiff, or Chief Constable of the Liberty to levy the said Offences by way of Distress; and if no Distress can be found, or the Party do not pay the Fine within 20 days after lawful demand thereof, he or they shall forfeit double so much; all which Fines and Forfeitures are to be employed, and bestowed towards the amendment of the High-ways in he Parish where the Offences are committed, *Wingates Abr. Stat. Tit. Highways*, 2 & 3 *P.* & *M. c.* 8.

The Bailiff, or High Constable, shall yearly betwixt the first of *March*, and last of *April*, render an Account unto the Constables and Churchwardens, who have the other parts of the Estreats of the Fines, of what Mony they have received, on pain of 40 *s.* and the said Constables and Churchwardens have power to call the Bailiff or High Constable before two or more Justices of the Peace (*Quor. unus*) to pass his Account, who have power to commit him, until he have satisfied all the Arrearages by him received, save 8 *d.* in the pound for his own Fee, and 12 *d.* in the pound for the Clerk of the Peace, or Steward of the Leet, and in this case the succeeding Constables and Churchwardens have the same power as their Predecessors had, 2 & 3 *P.* & *M. c.* 8.

Two Justices of the Peace by the Stat. 18 *El.* make take Accounts of the Surveyors of the Ways, and the Petty Constables and Churchwardens, for such Forfeitures (within that Statute) as they have levied, 18 *El. c.* 10. *Dalt. J. P.* c 50. *f.* 103.

*Note*, There are several Statutes which concern particular Highways, in which these Surveyors are little concerned; I shall therefore only name the Statutes, and they who desire to be further informed therein, may look the Statutes at large.

Stat. 39 *El. c.* 10. for repairing the Highways in the Wild of *Sussex Surry* and *Kent*, used for Iron Works. Stat. 37 *H.* 8. *c.* 3. for *Huntington Lane* near to *Chester*. Stat. 14 *H.* 8. *c.* 6. & 26 *H.* 8. c. 7. For laying out new High-ways in the Wild of *Kent* or *Sussex*. Stat. 1 *P.* & *M.* 2. *c.* 5. for the Causway between *Dorchester* and *Sherborn*. Stat. 18 *El. c.* 10. about the King's Ferry in *Kent*.

CHAP.

## CHAP. IV.

*Some Heads of the Stat.* 22. & 23 Car. 2. c. 17. *concerning the Ways, Sewers, Pavements,* &c. in London, *and the Scavengers Office.*

BY the Stat. of 22 & 23 *Car.* 2. A Clause in a late Act of Parliament, Entituled, *An Act for Rebuilding the City of* London; wherein was Enacted, That the Numbers and Places for Common Sewers, Drains and Vaults, and the manner of Paving and Pitching Streets and Lanes in the said City and Liberties, should be set out by Persons appointed by the Mayor, Aldermen and Common Council, or seven or more of them together with the Surveyors, or one of them within the Precincts respectively, which Persons or seven, or more of them were impowred to impose Taxes upon Houses in proportion to the benefit they receive thereby, and to levy the same by Distress and Sale of Goods, is made perpetual together with the Powers thereby given and appointed to be executed: And the sole Powers of ordering and regulating the keeping clear, pitching and paving the Streets, Lanes and Passages with the manner thereof, and of making and cleansing Drains and Sewers in *London*, is to remain in the Mayor, Commonalty, and Citizens to be executed by such as the Mayor, Aldermen and Commons in Common Council shall appoint or seven or more of them, being all Members of the said Court. And Persons imployed in any of the said Works, are enjoyned to observe the Directions of the Persons in that behalf authorised, 22 & 23 *Car.* 2. *c.* 17.

Offend-

Offenders may be proceeded against by Indict-
ent at the next Sessions of the Peace, in the
d City and Liberties, unless they submitted to
e Censure of the Persons so authorized, or
y seven or more of them, and pay the Mulct
them imposed to the Chamber of *London*,
be imployed towards the Works in this Act
entioned, 22 & 23 *Car.* 2. *c.* 17.

The Persons so authorized may impose Taxes
the several Wards and Precincts, and direct
ecepts to the respective Deputies and Common
uncil Men to assess the same, and like Pre-
pts to Scavengers to collect the same: And
here any Church or Churchyard shall front or
oyn to any of the said Streets, Lanes or Pas-
es, they may assess a reasonable Proportion
on the Parish to be paid by the Churchwar-
ns, of which Assessments the Deputies and
mmon Council Men shall return Duplicates
th the Scavengers Names, within twenty days
er receipt of the Precepts. And in default of
said Deputies, and Common Council Men
said Persons to be authorized may rate the
Assessments. And in default of Payment
hin six days after demand, the Scavengers
y levy the same by distress and sale of Goods,
dring the overplus, besides the reasonable
arge of distraining: And the Mony so col-
ted shall be Paid into the Chamber of *London*,
to be issued thence, but by order of the said
sons so to be appointed, or seven or more of
m, 22 & 23 *Car.* 2. *c.* 17.

nhabitants aggrieved through defect or decay
Pavements, or want of cleansing the Streets,
shall upon proof that such grievance is un-
ormed, receive directions from the Persons so
be authorized, or seven or more of them, for

redressing the same, and a Warrant under th Hands and Seals to the Chamberlain of *London* issue Monies for defraying the Charge there together with any Sum not exceeding ten sh lings for encouragement of his or their Diligen who upon receipt of such Warrant shall pay same accordingly: And Persons aggrieved any Charge imposed by virtue of this Act, wi in five days after demand thereof, may ap to the Mayor and Court of Aldermen, wh Order therein shall be final, 22 & 23 *Car.* 2. *c.*

The Mayor, Aldermen and Commons in Co mon Council may set out and purchase Gro for Laystals, and places for publick Stores, receipt of Dirt and Rubbish carried out of City, and for other Materials and Commodit The Mony for the same to be paid out of Monies arising by the Imposition upon Coals pointed for publick Uses of the City, other t the Mony appointed for Building Churches, & 23 *Car.* 2, *c.* 17.

No Persons by this Act made liable to be ted towards the altering, mending, or clean the said Vaults, Sewers, *&c.* or cleansing, Streets, Lanes, *&c.* shall be otherwise char or liable thereunto, 22 & 23 *Car* 2. *c.* 17.

CHA

## CHAP. V.

*e Heads of the 2 of* W. *and* M. *for Paving nd Cleansing the Streets in the Cities of* London *nd* Westminster, *Suburbs and Liberties there- f, the Out-Parishes in the County of* Middlesex, *he Borough of* Southwark, *and other Pleaces ithin the Weekly Bills of Mortality, in the Coun- y of* Surrey.

Very Inhabitant inhabiting in the said Pa- rishes, and in the Town of *Kensington*, shall ce every Week sweep before their Houses Buildings, and take up the Dirt ready for Scavenger, or other Officer, or else for every ence or Neglect, forfeit 3 *s.* 4 *d.*

f any throw, or permit to be thrown, Ashes h, or Annoyance befoer his House, Building Wall, shall forfeit 5 *s.* If before any Church, rch-yard, or publick Buildings, or into any , or Way, publick or private; but shall it in their Houses and Yards, until the cers come to carry it away, or else forfeit 20 *s.* hurchwardens, House-keepers of *White-hall*, other the Kings Houses, or of Noblemens uses, shall be subject to like Penalty; so shall ers of Courts, and Porters, and Keepers of er publick Buildings.

cavengers and Officers shall come every day cept Sundays and Holidays) and give notice the Parties concern'd may bring out their t, *&c.* or forfeit 40 *s.* for every neglect.

very Housholder shall pave, and keep repaired Streets before their Houses and Ground un- the Channel, or else forfeit for every Rod

20 *s.* and 20 *s.* every Week until it shall be s
ficently repaired.

Where new Streets and Ways are made, wh
the Justices of Peace in their General Quar
Sessions shall think fit and convenient to
paved with Stone or Gravel, and shall order
same to be done before dwelling House or B
ding in such Street or Way; Every Per
neglecting, shall forfeit forty shillings for e
such Offence, for every Perch, after that n
for a greater or lesser quantity, and the like S
for every Week till the same be paved an
mended.

Where Streets, Lanes or Allies have been
Custom otherwise repaired, it shall be done
such Persons as are by Custom to do it, un
the Penalties aforesaid.

Upon *Monday* or *Tuesday* in *Easter* W
The Constables, Churchwardens, Overseers
Surveyors giving notice, and calling such In
bitants that have served that Office, shall c
two Tradesmen to be Scavengers, ; who b
allowed under the Hand of any two Justices,
within seven days take the Office, or pay
and within seven days after such refusal,
shall in like manner chuse another, who
accept, or pay 10 *l.* which Penalties to be
ed by Distress and Sale, and for want of
ress or Payment within six days after noti
his House, to be sent to the Goal until
ment. Within twenty days after such Elec
the Constables, *&c.* shall call such Inhabit
as have born the like Office, and make a
by a Pound Rate, which being confirm
two Justices, shall be quarterly paid upon
mand made by the Scavengers, or other Off
appointed to gather the same, and being ref

ll by Warrant of two Justices be levied by
trefs and Sale, and for want of Distrefs, by
prisonment of the Offender until payment.
e Scavengers are to acccunt for the Mony be
m Collected, to two Justces of the Peace, with-
twenty eight days after new Scavengers are e-
ed, and to pay what Mony remains in their
nds to the new Scavengers.

The Scavengers and Rakers for any of the said
ishes shall have liberty, by the Order of the
ices in the Petty-Sessions, or any two of
m, to lodge their Soil in such vacant places
the Streets or High-ways, and as shall be
ught convenient by the said Justices, for
accommodation of the Country Carts return-
empty from the said Parishes, they giving
faction to the Owners of such vacant places,
in case of unreasonable Demands, the Jus-
s in their Petty-Sessions may hear and mode-
the same. If any Persons find themselves
ieved with the Rates made by virtue of this
or any ways prejudiced by the determinati-
f the Justices in their Petty Sessions, they may
recourse to the Justices at their General
rter Sessions of the Peace.

nd whereas there are many Common High-
s within the said Parishes, which cannot be
ciently repaired by means of the Law now
rce, an Assessment may be made upon all the
bitants, Owners and Occupiers of Lands and
ses, or personal Estate usually ratable to the
within any of the said Parishes, to be col-
d by such Persons as the Justices shall ap-
t at their General Quarter-Sessions, the
y so collected, to be employed as the Justi-
hall direct towards repairing the said High-
s.

No ſuch Rate ſhall exceed four pence in t
Pound, in any one year, in the yearly value
Lands, Houſes or Tenements, nor of eight pe
for every twenty pounds in perſonal Eſtate.

No Perſon or Perſons whatſoever, ſhall ſu
his Waggon, Car or Cart to ſtand in the H
*market* near *Pickadilly* in the Pariſh of St. M
*tin* in the Fields, St. *James* within the Libe
of *Weſtminſter*, Borough of *Southwark*, or a
other place in the Pariſhes within the Wee
Bills of Mortality, loaden with Hay or Stra
to ſell the ſame from *Michaelmas* to *Lady-day*,
ter two of the Clock in the Afternoon, a
from *Lady-day* to *Michaelmas*, after one in t
Afternoon, on pain to forfeit five ſhillings
every Offence and Neglect.

The Owners and Proprietors of any C
Car or Dray, the Wheels whereof ſhall not
made ſix Inches in the breadth, or ſhall be ſh
with Iron, or be drawn with above two Hor
ſhall forfeit forty ſhillings for every time ſu
Cart, Car or Dray ſhall be uſed, for the uſes,
to be levied as aforeſaid: This ſhall not exte
to any Country Cart or Waggon that ſhall bri
any Goods to the Cities or places aforeſaid,
ſhall carry any Goods half a Mile beyond t
paved Streets of the ſaid Cities and Places.

One Juſtice of Peace upon View or Confe
on, or Oath of one Witneſs, may convict a
of the Offences aforeſaid, if Conviction be
on proof, one Moiety to the Overſeers of
Poor, for the Relief of the Poor of the pl
where the Offence was committed, the ot
Moiety to him that ſhall diſcover and proſec
the ſame. But if the Conviction ſhall be by
View, then one half to the Poor, the other
wards repairing and cleanſing the Streets, to

d to the Scavengers of the Place, to be levied the Justices Warrant under Hand and Seal, the Constable, by Distress and Sale, or for nt of Distress or Payment within six days af- notice at the House, to be sent to Goal with- t Bail, until payment.

No Person (within the Cities of *London* and *Westminster*, and Liberties of the same, Borough *Southwark*, and Parishes aforesaid) shall breed, d or keep any Swine in any Houses or Back- es of the paved Streets where the Houses are ntiguous, on pain to forfeit the same to the urchwardens and Overseers of the Poor the rish where such Swine shall be kept, to the to the Poor.

The Churchwardens, Chappel-wardens, Over- rs of the Poor, Constables, Beadles, Headbor- ghs or Tythingmen of any the Parishes in the l Cities and Places respectively, in the day- ne, with a Warrant under the Hand and l of the Lord Mayor, or any other of their jesty's Justices of the Peace, may search for h Swine, and if any be found, they may seize l carry them way, and sell them for the best ce that can be had, and distribute the Mony to Poor of the Parish where they were seized.

3 & 4 *W. & M. cap.* 12. The Laws and Statutes force touching the High-ways, not hereby al- ed or repealed, shall be put in Execution.

Upon the 26th day *Decemb.* yearly unless that y be *Sunday*, and then on the 27th day, the nstables, Headboroughs, Tything-men, Church- rdens, Surveyors of the High-ways, and Inhabi- ts in every Parish shall assemble, and the major t of the Assembly shall make a List of the mes of a competent Number of the Inhabi- nts, who have an Estate in Land in their own

Right, or their Wives, of 10 *l. per Annum*, or personal Estate of 100 *l.* or are Occupiers of Houses, Lands, *&c.* of the yearly value of 30 if such there be, and if not, then a List of the most sufficient Inhabitants, and return it to Two or more Justice of the Peace at a Special Session to be held for that purpose, on the third day of *January* next following, or within Fifteen days after: For which purpose the Justices are required to hold a Special Sessions, and to give notice to the Constables, Headboroughs, *&c.* of every Parish within the Division Ten days before the holding of the same; and out of the said Lists by Warrant, under their Hands and Seals they shall nominate One, Two, or more, to be Surveyor or Surveyors of the High-ways of every Parish within the Division, or for any Hamlet, Precinct, Town, *&c.* of and in the same, for the year ensuing. Which Nomination shall by the Constables, *&c.* be notified to the persons nominated, within six days, by serving them with warrants, or leaving the same, or a Copy thereof at their Houses: And if persons so nominated shall refuse or neglect to take upon them the said Office, they shall Forfeit 5 *l.* to be on their Goods by Distress and Sale thereof, by Warrant of Two Justices of the Peace; which Warrant the Justices are required to make upon the Information of one Credible Witness upon Oath; the Moiety of such Forfeiture to the Informer, the other to go towards the Repairing of the High-Ways, and in such case the Justices shall nominate some other fit persons to perform the Office, who shall upon like notice, take upon them the Office under the same Penalty: And Constables, Headboroughs, *&c.* or some of them, who shall not return such Lists of Names, every one of them

neglecting

eglecting, shall Forfeit 20 s. to be levied in the
nanner, and imployed to the Uses aforesaid.

No Persons shall lay in any High-way, not 20
oot broad, any matter whereby the same ob-
ructed or annoyed, on pain to Forfeit 5 s. to
e levied and disposed, as aforesaid.

If any Timber, Stone, Hay, Straw, Stubble,
r other Matter for making Dung, or on any o-
her Pretence, shall be laid in any such Highway,
he Possessors of the Lands next adjoyning, shall
emove and dispose of the same to their own
Use: And if they neglect to clear the way, or
o cleanse their Ditches. &c. adjoyning, there-
nto, or to cause the Earth taken there-out, to
e carried away, and to lay sufficient Trunks or
ridges where there are Cart-ways into the said
rounds, by the space of Ten days after notice
iven by any of the Surveyors, they shall Forfeit
s. for every such Offence, to be levied and dis-
osed as aforesaid.

No Tree, Bush, or Shrub shall be permitted to
row in any High-way, not 20 Foot Broad, but
hall be cut down by the Owner of the Land
here it stands, within Ten days after notice
iven by any of the Surveyors on pain to forfeit
l. to be levied and disposed as aforesaid.

The Possessors of Lands adjoyning to High-
ays, not 20 Foot broad, shall keep their Hedges
runed right up from the Roots.

Surveyors appointed as aforesaid, shall within
ourteen days after their Acceptance of this
Office, and so from time time, every Four
nonths, view the Roads, Water-courses, Bridges,
awseys, &c. within the Parish, &c. where he
a Surveyor, that are to be repaired by the Pa-
ish, &c. and present upon Oath in what Con-
ition they find them, to some Justice of Peace,

or to incur the ſame Penalty, as if they had refu-
ſed to execute the Office, unleſs they have ſome
reaſonable Excuſe to be allowed of by two Juſti-
ces of the Peace: And what Defaults they ſhall
find, they ſhall the next *Sunday* after Sermon end-
ed, give publick notice of, in the Pariſh-Church
and if the ſame be not amended within thirty
days after, ſuch Surveyors ſhall within thirty
days amend the ſame, and diſpoſe of the Annoy-
ances for the Repair of the High-ways, and
ſhall be reimburſed their Charges by the party
who ſhould have done the ſame: And in caſe of
refuſal by the Party to pay ſuch Charges, the
Surveyors ſhall apply themſelves to a Juſtice of
Peace, and upon Oath before him made of notice
to the Defaulter given, as aforeſaid, the Survey-
ors ſhall be repaid ſuch Charges as the Juſtice of
Peace ſhall think reaſonable, to be levied as
foreſaid.

The Juſtices of Peace ſhall once in Four
months hold a Special Seſſions, and ſummon
thereunto all the Surveyors of the High-ways
and declare to them what they are obliged to
do by virtue of this, or any former Act. After
which the Surveyors ſhall make a Preſentment
to them upon Oath, of the ſtate of the High-
ways within their reſpective Pariſhes, *&c.* and
what Offences and Neglects any are guilty of.
And before any Surveyor be diſcharged of his
Office, he ſhall at ſome ſuch ſpecial Seſſions give
an Account upon Oath, of all Money that hath
come to his hands, which ought to be imployed
in amending the High-ways, and how it hath
been diſpoſed; and if any remain in his hands
he ſhall deliver it to the next Surveyors, or in
caſe of Failure, ſhall Forfeit double the Value,
be levied and diſpoſed as aforeſaid.

So

Surveyors neglecting their Duty in any thing required by this Act shall forfeit for every Offence, 40 *s.* to be levied and disposed as aforesaid.

If any Justice of Peace shall neglect or refuse to do what this Act requires, he shall forfeit 5 *l.* one Moiety to the Prosecutor, the other to be imployed for the Amendment of the High-ways, where the Person who sues shall inhabit, to be recovered in any of Their Majesties Courts of Record, by Action of Debt, *&c.*

Surveyors of the High-ways, where the Ditches and Drains already made, are not sufficient to carry off the water, may make new ones through the Lands adjoyning, and keep them open, and come upon the Grounds with Workmen so doing.

Upon notice given by the Surveyors to the Justices at their special Sessions, and Oath made of what Sums they have expended in Repairing the High-ways, the Justice, or any Two of them may by Warrant cause an equal Rate to be made to reimburse them, where they are forced to lay out their Money, according to the Methods prescribed in an Act made the 43 of *Eliz*, Entituled, *An Act for the better Relief of the Poor of this Kingdom*; and if any refuse to pay what shall be assessed on him, the Surveyors shall levy the same by Distress or Sale of Goods.

No Fine, Issue, Penalty, or Forfeiture for not amending High-ways, shall be returned into the Exchequer, or other Court, but shall be levied into the hands of the Surveyors, to be applied towards the Amendment of such High-ways: And if any such Fine, *&c.* imposed on any Parish, *&c.* for not repairing the High-ways, shall be levied on or one or more of the Inhabitants, upon Complaint to the Justices of the

Peace

Peace at their Special Sessions, they, or any two of them may by Warrant cause a Rate to be made to reimburse them, which the Surveyors shall levy and pay within a Month after the making thereof.

The Surveyors shall make every Cart-way leading to any Market-Town Eight Foot wide at least, and as near as may be level.

Inhabitants within the Weekly Bills of Mortality, Brewers, Scavengers, and others imployed in carrying away the Dirt and Soil of the Streets, *&c.* may use any Car, Cart, or Dray, with Wheels shod with Iron, and narrower than 6 Inches in the Fellies, and drawn with more than two Horses, any Act, Law, or Usage to the contrary notwithstanding.

Where the Justices of Peace at their General Quarter Sessions shall be satisfied, that the Highways, *&c.* cannot be sufficiently amended without the help of this Act, Assessments upon Persons usually rateable to the Poor shall be made, and levied by such Persons, and in such manner, as the Justices at such Sessions shall direct and appoint; the Money to be raised, to be imployed according to their Orders for repairing the High-ways, *&c.* The said Assessments, if not paid within Ten days after Demand, to be levied by Distress and sale of Goods, rendring the Overplus, Charges deducted.

No such Assessments to be made in any one year, *&c.* shall exceed 6 *d.* in the Pound of the yearly Value of Lands, *&c.* nor of 6 *d.* for 20 *l.* in personal Estate.

If any Persons find themselves agrieved by such Assessments, or any Act by the Justices of Peace, the Justices of Peace, at their General Quarter-Sessions, shall take Order therein, which shall conclude all Parties.

None

None shall be punished for any Offence against this Act, unless he be prosecuted within six Months after the Offence committed; nor shall any person punished by Virtue of this Act, be punished for the same Offence by Virtue of any former Law.

No Horse cawsey shall be under Three Foot in Breadth.

The Justices of Peace for *Middlesex*, may at their Quarter Sessions make Rates for paving *Kensington*, in such manner as is directed by an Act made in the second Year of Their Majesties Reign, for Paving and Cleansing the Streets of *London* and *Westminster*.

All matters concerning High-ways, *&c.* shall be determined in the County where they lie, and not elsewhere; and no Presentment, Indictment or Order made by Virtue of this Act, shall be removed by *Certiorari* out of the County.

The Justices of Peace of every County at their Quarter-Sessions after *Easter*, yearly, shall assess the Prices of all Land-Carriage of Goods to be brought into any place within their Jurisdictions, by any common Waggoner or Carrier; and shall certifie such Rates to the Mayors, or other chief Officers of every Market-Town; and Waggoners and Carriers taking more than shall be so assessed, shall forfeit for every such Offence 5 *l.* to be levied by Distress and Sale of Goods, and Warrant of Two Justices, to the Use of the party grieved.

8 & 9 *W.* 3. *cap.* 16. For enlarging Common High-ways, It is Enacted, that the Justices of Peace of any County, City, *&c.* or the major Part of them (Five at least) at their Quarter Sessions, may enlarge or widen any High-ways in their respective Counties, *&c.* So that the Ground

Ground to be taken into the said High-ways do not exceed Eight Yards in Breadth, and that they do not pull down any House, nor take away any Ground from Garden, Orchard, Court or Yard.

For Satisfaction of the Owners, the said Justices shall Impannel a Jury, and Administer an Oath to them, that they will Assess such Damages, and Recompence to the Owners or others Interested in the Ground (not exceeding 21 Years Purchase) as they shall think reasonable, &c. And upon payment of the said Money so Awarded, or leaving it in the Hands of the Clerk of the Peace of the County, for the Use of the Owner, the Interest of the said Owner shall be divested out of him, and the said Ground shall be esteemed a Publick High-way to all Intents whatsoever.

And the said Justices shall order Assessment to be made and Levied upon all such persons that ought to Repair the said High-way; and the Mony thereby Raised shall be Imploy'd towards Purchasing the Land, to enlarge the said Highways, and making Ditches and Fences. The said Assessments to be Levied by the Overseers of the High-ways, by Distress and Sale of Goods, if not paid within Ten Days after Demand.

No such Assessment shall, in one Year, exceed the Rate of 6d. in the Pound for Lands, nor 6d. in the Pound for personal Estates.

The said Justices, at the Request of any person for enlarging High-ways, shall, at their Quarter Sessions, Issue out their Precepts to the Owners of Ground to be Laid to the said High-ways, to Appear and shew cause why the said High-ways should not be enlarged.

After an Order or Decree is made for the Laying out of Ground for enlarging High-ways, the Owner hath Liberty, in Eight months after, to Cut down any Wood or Timber growing upon the said Ground; or upon neglect, the Justices shall Sell it, and deliver to the Owner the Value.

Persons Agrieved by Order of the Justices, may Appeal to the Judges of Assize at the next Assize only, who may Affirm or Reverse the same; and if they see cause to affirm, to Award Costs against the Appellant.

Where any Common High-way shall be enclosed, after a Writ of *Ad quod Damnum* Issued and Executed, any person Injured or Agrieved by such Inclosure, may Complain to the Justices at the Quarter Sessions next after such Inquisition, who may hear and finally determine the same, *&c.* But if no such Appeal be made, then the said Inquisition and Return, Recorded by the Clerk of the Peace, to be for ever Binding.

Justices of Peace at their respective special Sessions, to be held by Virtue of the *Stat.* 3 *&* 4 *W. & M.* (*cap.* 12.) in such Cases as they shall think necessary, shall direct their Precepts to the Surveyors of the High-ways, where Two or more Cross High-ways meet, requiring them to erect, where such Ways joyn, a Stone or Post with an Inscription, directing to the next Market Town, to which each of the said Cross Ways lead. And in case the Surveyor or Surveyors neglect or refuse so to do, for the space of Three Months, every such Offender shall forfeit 10 *s.* to be Levied by Warrant of one Justice, directed to the Constable, requiring him to Distrain and Sell the Goods of such Offender, and Imploy the Mony to the said Purpose.

CHAP.

## CHAP. VI.

*Several Cases about the Repairs of Bridges, with the Names of the Statutes which concern particular Bridges.*

WHere a Common Bridge in the King's High-way is in decay, and that it cannot be proved or known, who nor what Lands are chargable to the repair thereof; in this case four Justices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding wherein such decayed Bridges be; and if they be in a City, or Town Corporate, then four such Justices of Peace there, may within the Limits of their several Commissions, call before them the Constables, or two of the most honest Inhabitants of every Town and Parish within the Shire, Riding, City or Town Corporate, wherein such Bridge or any parcel thereof shall happen to be; and the Justices (upon the appearance of the Constables, or other Inhabitants, and with their Assents) may Tax every Inhabitant in any such City, Town or Parish within their Limits, to such reasonable Sum of Mony as by their Discretion they shall think convenient, as well for the repairing of such Bridge, and also for the making and repairing of the High-ways by the space of 300 Foot next adjoyning to the Ends of any such Bridges, 22 *H.* 8. *c.* 5. *Dalt. J. P. c.* 16. *f.* 44. *Co.* 2 *part*, *Inst f.* 701. 702.

But Note, Where the Franchise, City or Borough is a County of it self, and hath not four or more Justices of the Peace, whereof one or more are of the *Quorum*, in this case no other Justices of the Peace, of any Shire or County, have any power to meddle there be this Act, but such decay must be reformed by the Common Law

by such Remedy as they were before the making of the Statute of 22 *H.* 8. *Co.* 2. *part, Inst. f.* 702.

And note, That this Taxation ought not to be made by the Justices, without the Consent of the Constables or Inhabitants, nor by them without the Justices; and this Tax ought to be upon every Inhabitaant in particular, and not to be set upon the Hundred, Parish, Town, *&c.* for then one or two might be distrained upon for the whole, *Co.* 2 *part, Inst. f.* 704.

After such Taxation made, as aforesaid, the said Justices of Peace shall cause the Names and Sums of every particular Person so by them taxed, to be written in a Roll indented in Parchment for every Hundred, and sealed with their Seals, *Co.* 2. *part, Inst. fol.* 704. *Dalt. J. P. c.* 16. *ibid.*

And the said Justices may make two Collectors of every Hundred, for the Collecting of all such Sums of Mony by the said Justices set and taxed, which Collectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Mony therein contained, and if refusal be made upon demand, then to distrain, and sell such Distress, rendring the over plus to the Owner, if any be, *Dalt. J. P. c.* 16. *f.* ibid. 22 *H.* 8. *c.* 5. *Co.* 2. *part, Inst f.* 705.

The said Justices also are to appoint two Surveyors, who shall see such decayed Bridges and Ways repaired and amended from time to time, as often as need shall require, to whose Hands the Collectors must pay the Monies by them received, *Dalt. J. P. c.* 16. *ibid.* 22 *H.* 8. *c.* 5.

And the said Collectors and Surveyors, and their Executors and Administrators, and every of them shall from time to time make a true Account to the said Justices of Peace, of the Receipts, Payments and Expences of the said Sums of Mony, and if any of them refuse so to do, then

then the Justices of Peace from time to time, by their Discretions, may make out process against the said Collectors and Surveyors, their Executors and Administrators by Attachment, Precept or Warrant under their Hands and Seals returnable at their General Sessions of the Peace, and the said Justices may allow such reasonable Costs and Charge to the Surveyors and Collectors upon their Accounts, as to them shall seem convenient, 2 *H.8. c.* 5. *Dalt. J. P. c.* 16. *ibid.*

If any such Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the said City or Corporate Town must repair it; and where such Bridges lie out of such City or Corporate Town, the same must be made by the Inhabitaints of the Shire or Riding within which the same Bridge shall be; and if part of the Bridge be in one Shire or Riding, City or Corporate Town, and part in another, then every of them shall be charged to make and repair such part as shall lie, and be within their own Limits, 22 *H.* 8. *c.* 5. *Co.* 2 *part, Inst. fol.* 207. *Dalt. J. P. c.* 16. *fol.* 45.

But otherwise no Village or Freeman shall be compelled to make any Bridge; but such as of old time, and by right they were wont to make, *Magna Charta, c.* 15.

By the Common Law, some Persons were bound to repair Bridges, *Ratione tenuræ suæ Terrarum*, &c. and this was binding, into whose Hands soever the Estate did come; but they which have Lands on the one side, or on the other, or on both, are not bound in Common Right to repair the same, 44 *El.* 3. 31. 21 *E.* 4. 46. 5 *H.* 7. 3. *Crompt.* 186. 8 *H.* 7. 5. *b. Co.* 2 *part, Inst. f.* 700.

If a Man which holdeth 100 Acres of Land, ought to repair a Bridge by tenure of the same,

do

do alien 20 Acres thereof to one Man, and 10 Acres to another Man, in such case every Owner or Occupier of such Lands must be charged proportionably for their said Lands, *Regist.* 268. *o.* F. N. B. 253. *b. Co.* 2 *part, Inst. f.* 700.

Again, Some by the Common Law were bound by prescription to repair a Bridge; but herein there is a diversity between Bodies Politick or Corporate, Spiritual or Temporal, and Natural Persons: For Bodies Politick, *&c.* may be bound by usage and prescription only, because they are local, and have a perpetual Succession, and never die; but a Natural Person cannot be bound by the Act of his Ancestor without Assets, or some Profit to be taken therefore, 21 *E.* 4. *fol.* 38. *b.* 27 *Ass.* 8. *Crompt.* 187. *Co.* 2. *part, f.* 700. *Dalt. J. P. c.* 16. *f.* 45.

By Common Right, Bridges are to be amended by the whole County, if it be not known who ought to do the same otherwise, *Pasch.* 19 *E.* 3. 28, 29. *Co.* 2 *part, Inst. f.* 701. *Cromp.* 186. *b. Tr.* 10 *Car.* 1. the Case of *Longford* Bridge, *Rolls Cases* 1 *part, f.* 368. *& Cro. Rep.* 3 *part,* the same Case.

If a Man erect a Mill for his own particular profit, and cut a new Course for the Water to come to it, and makes a new Bridge over the same, and the Kings Subjects use to ride over the same as over a Common Bridge; such Bridge ought to be repaired by him who hath the Mill, and not by the County, because he erected it for his own Benefit, 8 *E.* 2. *B. R.* adjudged for *Bow* Bridge and *Channel* Bridge against the Prior of *Stratford*, 1 *Rolls Cases*, 1 *p.* 368.

Such as are chargable to repair a Bridge, may enter upon any other Mans Land or Soil adjoyning, and lay their Stone, Lime, Timber, or other Things necessary there, for the repairing and amending thereof, and the Owner

of

of the Lands shall have no Action therefore, for it is for the common Profit; and the Party that is chargable to repair a Bridge, must also maintain the Way at each end thereof (though the Soil be to another) and if the ends be broken by the Water-course, he must follow the Water-course, and repair the Way, &c. *Crompt.* 186. *b.* 43 *Ass. Dalt. J. P. c.* 16. *f.* 46.

The Names of some Statutes for particular Bridges follow, 8 *H.* 6. *c.* 28. For the making of *Burford* and *Culhamford* Bridge. 18 *E.* 1. *c.* 7. & 27 *E. c.* 25. For the maintenance of *Rochester* Bridge. 18 *El. c.* 20. For repair of the Bridges within a Mile of *Oxford.* 23 *El. c.* 11. For the maintenance of the Bridges ouer *Tosse* in *Walts.* 39 *El. c.* 23. For making and repairing of *Newport* and *Carlion* Bridges over the River *Usk.* 39 *El.* c. 24. For building and maintenance of a Bridgs at *Wilton*, upon *Wie*, near *Ross*, in *Herefordshrie.* 43 *El.* c. 16. For erecting and repairing *Edon* and *Presberk* Bridges in *Cumberland.* 3 *Jac.* c. 23. For making and repairing *Chepstow* Bridge.

By the Stat. 22 *Car.* 2. 12. It is Enacted, That the Surveyors and Orderers of the Work, of amendment of the High-ways, shall be yearly chosen in Christmas Week, according to the Stat. 2 & 3 *P.* & *M. c.* 8. Which Persons so chosen, shall take upon them that Office, and shall appoint six days for providing Stones, Gravel, and other Materials, and for working in the High-ways, having respect to the Season of the Year and Weather, and giving notice publickly some convenient time before the several days. At which day all Persons liable to the said Work, shall attend and work: And the said Surveyors and Orderers shall make return of the Defaulters, and every of them within one Month, to some neighbouring Justice of the Peace of the same County.

## DIRECTIONS *for the Keepers of Fairs and Markets.*

FAirs are accounted things of Franchise and Priviledge, as well as of Profit; and whether they be held and claimed be Charter of the King, or by Prescription, which supposes a former Charter, they ought to be holden for no longer time, than such Grant or Use will warrant: And after such time, what is done there, is not warranted or justifiable, nor amounts to more than a private Transaction; and the Sheriff ought to make Proclamation, That those that have Fairs keep them no longer than they ought to do; and every Lord of a Fair shall at the beginning thereof make Proclamation how long the same is to continue, upon pain to be grievously amerced to the King; And if they hold them longer than they ought, they shall be seised into the King's Hands, until they make Fine for the Offence; and if a Merchant sell Ware after the time the Fair ought to end, he shall forfeit to the King double the value of what is sold, and the Prosecutor shall have the fourth part, *Dalt. J. P. c.* 62. *f.* 138.

The Owner, or Chief Keeper of every Fair and Market-overt, are to appoint and limit out a certain and open place within the Town, place, Field or Circuit where Horses, Mares, Geldings and Colts must be sold, and they must appoint one sufficient Person, or more, to take Toll, and keep the same place from ten of the Clock before Noon, until Sun-set of every day of the foresaid Fair or Market, upon pain to lose for every Default 40 shillings, 2 & 3 *P. & M c.* 7. *Co.* 2 *part, Inst. f.* 715.

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The Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horse, Mare, *&c.* at the place and times aforesaid; and they are to have before them at the taking of the said Toll, the Parties, to the Bargain, Exchange, Gift, Contract, or putting away of every such Horse, Mare, *&c.* and also the same Horse, Mare, *&c.* so sold, exchanged, or put away, and then the Toll-gatherer must write in his Book the Names, Sirnames, and dwelling Places of all the said Parties, and the Colour with one special Mark at the least of the said Horse, Mare, *&c.* on pain to forfeit for every Default 40 shillings, 2 & 3 *P.* & *M c.* 7. *Co.* 2 *part Inst. f.* 7. 5.

And the said Toll-gatherer is within one day after the Fair, *&c.* to bring his Book to the Owners, Governour or Ruler, *&c.* of the Fair or Market, who is then to cause a Note to be made out of the same; of the true number of all the Horses, Mares *&c.* sold at the said Fair or Market, to which Note he must set his Hand or Mark, on pain of 40 shillings: And if the Toll-gatherer neglect to bring the Book, as aforesaid, he also forfeits 40 shillings, 2 & 3 *P.* & *M c.* 7. *Co.* 2 *part, Inst. f.* 715.

Where no Toll is due, the Book-keeper's Fee for entring every Contract, is one Penny and no more, 2 & 3 *P.* & *M. c.* 7. *Co.* 2 *part, Inst. f.* 7. 16.

Now since the making of this Stat 2 & 3 *P. M.* It is further provided by the 31 *Eliz.* That every Seller or Exchanger of any Horse, Mare *&c.* in a Fair or Market, which is unknown to the Toll-taker or Book-keeper must procure one credible Person that is well known to the Toll-keeper, or Book-keeper, who is to vouch and testifie

estifie his Knowledge of the Seller, and the Toll-taker, or Book-keeper, is to enter both the Names and Sirnames, Mysteries, and Places of Dwelling of the Seller and Voucher into his Book, with the Colour, Mark and Price of the Horse, Mare, *&c.* so sold or exchanged; and he is to give the Buyer, if he require it, a Note in writing out of his Book, concerning the Contract subscribed with his Hand, for which he is to have two pence, 31 *El. c.* 12. *Co.* 2 *part*, *Inst. f.* 717, 718.

Every Toll-taker or Book-keeper that suffers a Sale to pass without a Vouchee, unless he know the Party of his own Knowledge, as aforesaid, and every Person making false Testimony or Avouchment in the behalf aforesaid, and every Seller unknown to the Toll-taker, not bringing a Voucher, and causing the same to be entred as aforesaid, forfeits five pounds, one Moiety thereof to the King, and the other to the Prosecutor; and also the sale of such Horse, Mare, *&c.* to be void, 31 *El. c.* 12. *Co.* 2 *part*, *Inst. f.* 718.

And *note.* That though an Horse, Mare, *&c.* be at the sale used in all the Points aforesaid, with Voucher, *&c.* yet the right Owner, his Executors or Administrators, may redeem a stolen Horse if they claim him within six months after the stealing, at the Parish or Corporation, where they shall find him, and make proof within 40 day after, by two sufficient Witnesses, before the next Justice of Peace of the County, or before the Head Officer in a Corporation, that the Horse was theirs, and repay to the Buyer such price for the Horse, as the same Buyer shall upon his own Oath before such Justice or Officer, testifie he paid for him, 31 *El. c.* 12 *Bingates Stat. Tit. Fairs and Markets*, *Co.* 2 *part* *Inst. f.* 718.

If

If a stoln Horse be not sold in Fair or Market, according to the Rules aforesaid, then such Sale does not alter the Property of the right Owner, but he may seize or replevy him wheresoever he finds him, 31 *El. c. Wingate ubi supra. Co. 2 part, Inst. f.* 718,

No Persons shall buy any Oxen, Runts, Steers, Kine, Heifers, Calves, Sheep, Lambs, Goats or Kids alive, and sell the same again, unless he keep the same five Weeks in his own Grounds; or where he hath Herbage by Grant or Prescription, upon pain to lose double the value of the Cattle; one Moiety to the King, the other to the Informer, 5 *Ed. 6. c* 1.4

By the *Stat.* 22 *Car.* 2. *c.* 8. There shall be no Bushel but the *Winchester* Bushel, containing eight Gallons, and none shall sell by other Measure, on pain of 40 shillings.

If the Clerk of the Market of the Kings House or others authorized to Mark or seal Measures being required, shall neglect or refuse to seal or Mark any Bushel, Half Bushel, or Peck duly gauged, he forfeits 5 *l.* for the first Offence, and for every other Offence 10 *l.* or if the King's Clerk of the Market of his House take more than his Fees, or if any other take above one peny for sealing a Bushel, one half peny for the Half Bushel or Peck, or more than one farthing for any lesser Measure, he incurs the Penalties in the *Stat.* 11 *Car.* 1.

That at the charge of such Persons who have the Toll, or profit of the Market where no Toll is taken, there shall be before 29 *Sept.* 1670. one Measure of Brass provided and chained in the Market-place, upon pain to forfeit 5 *l.* 22 *Car.* 2. *c.*

By the *Stat.* of 22 & 23 *Car.* 2. It is further provided, That whosoever shall sell or buy any

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n or Salt by the Bag, or without measuring g thereunto required, or in any other man- than as by the *Stat.* 22 *Car.* 2. *c.* 8. is direct- and without shaking the Measure by the er, shall forfeit besides the Penalty in the ner Act, all the Corn or Salt, or the value efore to the Person or Persons complaining, & 23 *Car.* 2 *c.* 12.

Upon complaint to one or more Justices of ce, the Proof shall lie upon the Defendant, to e appear by Oath of one or more Witnesses, he or they did sell or buy according to this the said former Act; wherein if he fail, he l forfeit as by this Act is directed, to be le- by distress and sale of Goods, by Warrant er the Hand and Seal of one or more Ju- es before whom such Conviction shall be. e Penalties to be distributed, one half to the r of the Parish where the Offence shall be mmitted, the other to the Informer, 22 & 23 . 2. *c.* 12.

RECTIONS *to Treasurers, for the Relief of poor maimed Soldiers and Mariners.*

THE Justices of Peace are yearly at the Quarter Sessions, about *Easter*, to choose or oint one or two Persons (according to their rections) of the County, for the taking and ributing of the Monies collected for the Re- of Poor maimed Soldiers and Mariners: d these Treasurers, by the Words of the ture, ought to be Subsidy Men of 10 pounds Lands, or 15 pounds in Goods, and these ficers are to continue in their Office one ar, and new ones then to be chosen in their oms, 43 *El. c. Wingates Stat. Tit. Captains.*

Now for the raising of Mony for these T
surers, the greater part of the Justices in t
Quarter Sessions, have power to charge e
Parish within their Limits, towards a We
Relief of maimed Soldiers and Mariners
that no Parish pay Weekly above 10 pence,
under 2 pence; nor any County, which con
of above 50 Parishes, pay above 6 *d.* one Pa
with another, 43 *El. c.* 3.

When the Tax is levied, the Constables
Churchwardens are to deliver it quarterly (
days before every Quarter Sessions) to the Hi
Constables of their Division, who must delive
the Treasurers of the County, at the same Qu
ter Sessions all the same Mony; and if
Constables or Churchwardens, their Execu
*&c.* fail in the payment, to the High Con
ble, within the time aforesaid, then they
to forfeit 20 *s.* and if the High Constable
to pay the Treasurers every Session, then
forfeits 40 *s.* which Forfeitures, as it see
the Treasurers may levy by Distress and Sal
the Offenders Goods, without any Warr
rendring the overplus to the Owner: A
these Forfeitures are to go in Augmentation
the Treasurers Stock, 43 *El. c.* 3.

The maimed Soldier or Mariner which
Prest, shall repair (if he be able to Travel) to
Treasurers of the County where he was Pre
if he were not Prest, then to the Treasurers
the County where he was Born, or were he
dwelt by the space of three years, at his E
ction; but if he be not able to Travel, th
to the Treasurers of the County where
Lands; and he is to bring with him a Cert
cate under the Hand and Seal of the Chief Co
mander, or of the Captain under whom
serv

erved, containing the particular of his Hurts nd Service, which Certificate shall also be allowed by the Muster-Master, or the Receiver-General of the Rolls for the Muster, under one of their Hands, 33 *El. c.* 3.

Then upon such a Certificate, the Treasurers foresaid may allow the Party Relief to maintain him till the next Quarter Sessions; and hen the major part of the Justices may allow im a Pension, which the Treasurers must ay him quarterly, until it shall be revoked or tered be the said Justices; and this Allowance not to exceed 10 *l. per annum* to a Common oldier, nor 15 *l.* to an Officer under a Lieutenant, nor 20 *l.* to a Lieutenant, 43 *El.* 3. *Wingates Stat. Tit. Captains and Soldiers.*

Where Soldiers and Mariners arrive far orm the place where thy are to receive Relief, the Treasurers there shall give them Relief, nd a Testimonial whereby they may pass from reasurer to Treasurer, until they shall come the place required; and this shall be done pon the bare Certificate of the Commander d Captain, although they have not as yet tain'd any Allowance form the Muster-Master, Receiver-General of the Muster-Rolls, *Wingates Stat. Tit. Captains and Soldiers*, 43 *El. c.* 3.

If any Soldier or Mariner beg, or counterfeit Certificate, he shall be punished as a Common ogue, and shall lose his Pension, if he have any *El. c.* 3. *Wingate, ut supra.*

When out of the County where the Party as Prest, a fit Pension cannot be satisfied, it all then be supplied by the County where he as born, or else where he last dwelt by the ace of three years, *Wingate, ubi supra*, 43 *El. c.* 3.

The Treasurers are to Register all their Receipts

ceipts and Disbursments, and must enter the Names of the Parties relieved into their Book, and also the Certificate, by virtue whereof the Disbursments are made; and where they disallow of a Certificate, they are to set down the Reasons of their Refusal under the Certificate, or on the back thereof, 43 *El. c.* 3. *Wingate Stat. Tit. Captains and Soldiers.*

If any Treasurer wilfully refuse to give Relief in the Cases aforesaid, the Justices of the Peace, in their Sessions, may set a Fine upon him, which may be levied by Distress and Sale of his Goods, *Wingate, ubi supra.*

These Officers at the end of their Year, within 10 days after *Easter* Sessions, are to give up a just Account to the succeeding Treasurers of all their Receipts and Disbursments within the time of their Office; and then if they have any Mony in their Hands, they are to deliver it to their Successors; and if any such Officer his Executors or Administrators shall not give up such Account within the time aforesaid, or shall be otherwise negligent in the Execution of his Office; The Justices at the Sessions may assess what Fine they please upon him; so that it be not under 5 *l* but what they please above 5 *l.* upon him, his Executors or Administrators *Wingate, ubi supra,* 43 *El. c.* 3.

In Corporations, the Justices there are to put this Act in Execution, and not the Justices of the County: This Act is not to prohibit the City of *London* to make a Tax if need require, differing from that above limited in this Act, so that no Parish pay above three shillings Weekly, nor under twelve pence Weekly, one Parish with another, 43 *El. c.* 3.

*FINIS.*